118TH CONGRESS
1ST SESSION

H. R. ______

To reform the immigration laws.

IN THE HOUSE OF REPRESENTATIVES

Ms. Salazar introduced the following bill; which was referred to the
Committee on ______

A BILL

To reform the immigration laws.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the
“Dignity for Immigrants while Guarding our Nation to Ig-
nite and Deliver the American Dream Act of 2023” or
as the “DIGNIDAD (Dignity) Act of 2023”.

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

Sec. 1. Short title; table of contents.
DIVISION A—BORDER SECURITY FOR AMERICA ACT

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. Border security technology program management.
Sec. 1114. Landowner and rancher security enhancement.
Sec. 1115. Eradication of carrizo cane and salt cedar.
Sec. 1116. Southern border threat analysis, Border Patrol strategic plan, and Northern Border Threat Analysis.
Sec. 1117. Amendments to U.S. Customs and Border Protection.
Sec. 1118. Agent and officer technology use.
Sec. 1119. Tunnel Task Forces.
Sec. 1120. Pilot program on use of electromagnetic spectrum in support of border security operations.
Sec. 1121. Foreign migration assistance.
Sec. 1122. Biometric Identification Transnational Migration Alert Program.
Sec. 1123. Border and port security technology investment plan.
Sec. 1124. Commercial solutions opening acquisition program.
Sec. 1125. U.S. Customs and Border Protection technology upgrades.
Sec. 1126. Nonintrusive inspection operations.
Sec. 1128. Report on standards and guidelines for managing ports of entry under the control of the department of homeland security.

Subtitle B—Personnel

Sec. 1141. Additional U.S. Customs and Border Protection personnel.
Sec. 1142. U.S. Customs and Border Protection retention incentives.
Sec. 1143. Anti-Border Corruption Act Reauthorization.
Sec. 1144. Training for officers and agents of U.S. Customs and Border Protection.
Sec. 1145. Establishment of workload staffing models for U.S. Border Patrol and Air and Marine Operations of CBP.
Sec. 1146. U.S. border patrol processing coordinator positions.
Sec. 1147. Establishment of higher minimum rates of pay for united states border patrol agents.
Sec. 1149. Protecting sensitive locations.

Subtitle C—Grants

Sec. 1161. Operation Stonegarden.
Sec. 1162. Program for shelter and services.

Subtitle D—Border Security Certification

Sec. 1181. Border Security Certification.
TITLE II—BORDER SECURITY AND PORTS OF ENTRY INFRASTRUCTURE FUNDING

Subtitle A—Emergency Port of Entry Personnel and Infrastructure Funding

Sec. 1201. Ports of entry infrastructure.
Sec. 1202. Sense of Congress on cooperation between agencies.
Sec. 1203. Authorization of appropriations.

Subtitle B—Border Security Funding

Sec. 1211. Border Security Funding.
Sec. 1212. Exclusion from PAYGO scorecards.
Sec. 1213. Funding matters.

TITLE III—VISA SECURITY AND INTEGRITY

Sec. 1301. Visa security.
Sec. 1302. Electronic passport screening and biometric matching.
Sec. 1303. Reporting of visa overstays.
Sec. 1304. Student and exchange visitor information system verification.
Sec. 1305. Visa information sharing.
Sec. 1306. Fraud prevention.
Sec. 1307. Visa ineligibility for spouses and children of drug traffickers.
Sec. 1308. DNA testing.
Sec. 1309. DNA collection consistent with Federal law.

TITLE IV—TRANSNATIONAL CRIMINAL ORGANIZATION PREVENTION AND ELIMINATION

Sec. 1401. Short title.
Sec. 1402. Illicit spotting.
Sec. 1403. Unlawfully hindering immigration, border, and customs controls.
Sec. 1404. Report on smuggling.
Sec. 1405. Sarah’s law.
Sec. 1406. Illegal reentry.
Sec. 1407. Grounds of inadmissibility and deportability for alien gang members.
Sec. 1408. Mandatory minimum penalty for child sex trafficking.
Sec. 1409. Designation of certain drug cartels as Special Transnational Criminal Organization.

TITLE V—MANDATORY E-VERIFY

Sec. 1501. Short title.
Sec. 1502. Employment eligibility verification process.
Sec. 1503. Employment eligibility verification system.
Sec. 1504. Recruitment, referral, and continuation of employment.
Sec. 1505. Good faith defense.
Sec. 1506. Preemption and States’ Rights.
Sec. 1507. Repeal.
Sec. 1508. Penalties.
Sec. 1509. Fraud and misuse of documents.
Sec. 1510. Protection of Social Security Administration programs.
Sec. 1511. Fraud prevention.
Sec. 1512. Use of Employment Eligibility Verification Photo Tool.
Sec. 1513. Identity authentication employment eligibility verification pilot programs.
Sec. 1514. Inspector General audits.
Sec. 1515. Nationwide E-Verify Audit.

**TITLE VI—ASYLUM REFORM**

Sec. 1601. Humanitarian campuses.
Sec. 1602. Expedited Asylum Determinations.
Sec. 1603. Screening and processing in Western hemisphere.
Sec. 1604. Recording expedited removal and credible fear interviews.
Sec. 1605. Renunciation of asylum status pursuant to return to home country.
Sec. 1606. Notice concerning frivolous asylum applications.
Sec. 1607. Anti-fraud investigative work product.
Sec. 1608. Penalties for asylum fraud.
Sec. 1609. Statute of limitations for asylum fraud.
Sec. 1610. Standard operating procedures; facilities standards.
Sec. 1611. Criminal background checks for sponsors of unaccompanied alien children.
Sec. 1612. Fraud in connection with the transfer of custody of unaccompanied alien children.
Sec. 1613. Hiring authority.
Sec. 1614. Humanitarian status.
Sec. 1615. Two strike policy.
Sec. 1616. Loan forgiveness for legal service providers at humanitarian campuses.

**TITLE VII—RULE OF LAW, SECURITY, AND ECONOMIC DEVELOPMENT IN CENTRAL AMERICA**

Subtitle A—Promoting the Rule of Law, Security, and Economic Development in Central America

Sec. 1701. United States Strategy for Engagement in Central America.
Sec. 1702. Securing support of international donors and partners.
Sec. 1703. Combating corruption, strengthening the rule of law, and consolidating democratic governance.
Sec. 1704. Combating criminal violence and improving citizen security.
Sec. 1705. Combating sexual, gender-based, and domestic violence.

Subtitle B—Information Campaign on the Dangers of Irregular Migration

Sec. 1711. Information campaign on dangers of irregular migration.

Subtitle C—Cracking Down on Criminal Organizations

Sec. 1721. Enhanced investigation and prosecution of human smuggling networks and trafficking organizations.
Sec. 1722. Enhanced penalties for organized smuggling schemes.
Sec. 1723. Expanding financial sanctions on narcotics trafficking and money laundering.
Sec. 1724. Support for transnational anti-gang task forces for countering criminal gangs.

**DIVISION B—AMERICAN DREAM AND PROMISE**

Sec. 21000. Short title.

**TITLE I—DREAM ACT**
Sec. 21001. Short title.
Sec. 21002. Permanent resident status on a conditional basis for certain long-term residents who entered the United States as children.
Sec. 21003. Terms of permanent resident status on a conditional basis.
Sec. 21004. Removal of conditional basis of permanent resident status.
Sec. 21005. Restoration of State option to determine residency for purposes of higher education benefits.

**TITLE II—AMERICAN PROMISE ACT**

Sec. 22001. Short title.
Sec. 22002. Adjustment of status for certain nationals of certain countries designated for temporary protected status or deferred enforced departure.
Sec. 22003. Clarification.

**TITLE III—GENERAL PROVISIONS**

Sec. 23001. Definitions.
Sec. 23002. Submission of biometric and biographic data; background checks.
Sec. 23003. Limitation on removal; application and fee exemption; and other conditions on eligible individuals.
Sec. 23004. Determination of continuous presence and residence.
Sec. 23005. Exemption from numerical limitations.
Sec. 23006. Availability of administrative and judicial review.
Sec. 23007. Documentation requirements.
Sec. 23008. Rule making.
Sec. 23009. Confidentiality of information.
Sec. 23010. Grant program to assist eligible applicants.
Sec. 23011. Provisions affecting eligibility for adjustment of status.
Sec. 23012. Supplementary surcharge for appointed counsel.
Sec. 23013. Annual report on provisional denial authority.

**TITLE IV—DIGNITY AND REDEMPTION PROGRAMS**

Subtitle A—Dignity Program
Sec. 24001. Establishment.
Sec. 24002. Eligibility.
Sec. 24003. Registration; departure.
Sec. 24004. Program participation.
Sec. 24005. Completion.

Subtitle B—Redemption Program
Sec. 24101. Establishment.
Sec. 24102. Conditions.
Sec. 24103. Completion and removal of conditional status.

Subtitle C—Contribution to American Workers
Sec. 24200. Purpose.
Sec. 24201. Availability of funds.
Sec. 24202. Conforming amendments.

**PART 1—PROMOTING APPRENTICESHIPS THROUGH REGIONAL TRAINING NETWORKS**
Sec. 24301. Definitions.
Sec. 24302. Allotments to States.
Sec. 24303. Grants to partnerships.
Sec. 24304. Use of funds.
Sec. 24305. Performance and accountability.

PART 2—HIGH-DEMAND CAREERS

Sec. 24401. Grants for access to high-demand careers.

DIVISION C—IMPROVING SEASONAL GUEST WORKER OPPORTUNITIES

Sec. 31001. Short title.
Sec. 31002. Definitions.
Sec. 31003. H–2B cap relief.
Sec. 31004. Increased sanctions for willful misrepresentation or failure to meet the requirements for petitioning for an H–2B worker.
Sec. 31005. Reduction of paperwork burden.
Sec. 31006. Workplace safety.
Sec. 31007. Foreign labor recruiting; prohibition on fees.
Sec. 31008. Program integrity measures.
Sec. 31009. Program eligibility.
Sec. 31010. H–2B employer notification requirement.
Sec. 31011. Authorization of appropriations.

DIVISION D—AMERICAN AGRICULTURE DOMINANCE ACT

Sec. 41001. Short title.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Status for Certified Agricultural Workers

Sec. 41101. Certified agricultural worker status.
Sec. 41102. Terms and conditions of certified status.
Sec. 41103. Extensions of certified status.
Sec. 41104. Determination of continuous presence.
Sec. 41105. Employer obligations.
Sec. 41106. Administrative and judicial review.

Subtitle B—Optional Earned Residence for Long-Term Workers

Sec. 41201. Optional adjustment of status for long-term agricultural workers.
Sec. 41202. Payment of taxes.
Sec. 41203. Adjudication and decision; review.

Subtitle C—General Provisions

Sec. 41301. Definitions.
Sec. 41302. Rulemaking; fees.
Sec. 41303. Background checks.
Sec. 41304. Protection for children.
Sec. 41305. Limitation on removal.
Sec. 41306. Documentation of agricultural work history.
Sec. 41307. Employer protections.
Sec. 41308. Correction of Social Security records; conforming amendments.
Sec. 41309. Disclosures and privacy.
Sec. 41310. Penalties for false statements in applications.
Sec. 41311. Dissemination of information.
Sec. 41312. Exemption from numerical limitations.
Sec. 41313. Reports to Congress.
Sec. 41314. Grant program to assist eligible applicants.
Sec. 41315. Authorization of appropriations.

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

Subtitle A—Reforming the H–2A Worker Program

Sec. 42101. Comprehensive and streamlined electronic H–2A platform.
Sec. 42102. Agricultural labor or services.
Sec. 42103. H–2A program requirements.
Sec. 42104. Portable H–2A visa pilot program.
Sec. 42105. Pilot program providing forestry employers the option of using the H-2A program or the H-2B program.

DIVISION E—AMERICAN PROSPERITY AND COMPETITIVENESS

Sec. 51001. Short title.

TITLE I—PROTECTING THE FAMILY SYSTEM

Subtitle A—American Families United Act

Sec. 51101. Rule of construction.
Sec. 51102. Discretionary authority with respect to family members of united states citizens.
Sec. 51103. Motions to reopen or reconsider.

Subtitle B—Temporary Family Visitation Act

Sec. 51111. Family purpose nonimmigrant visas for relatives of united states citizens and lawful permanent residents seeking to enter the united states temporarily.

Subtitle C—Spouses or Children of an Alien Lawfully Admitted for Permanent Residence Uncapped

Sec. 51131. Spouses or children of an alien lawfully admitted for permanent residence.
Sec. 51132. Preference Allocation for Family-Sponsored Immigrants.

TITLE II—FAIRNESS FOR IMMIGRANTS

Sec. 51201. Elimination of backlogs.
Sec. 51202. Per-country caps raised.
Sec. 51203. Protecting the status of children affected by delays in visa availability.
Sec. 51204. Spouses and minor children not included in calculation.

TITLE III—IMPROVING EMPLOYMENT BASED VISAS

Subtitle A—H–4 Work Authorization Act

Sec. 51301. Employment authorization for certain alien spouses.
Subtitle B—Improving Employment Based Visas

Sec. 51311. Repeal of FICA exception for certain nonresidents temporarily present in the United States.

Sec. 51312. Individuals with doctoral degrees in STEM fields recognized as individuals having extraordinary ability.

TITLE IV—STUDENT VISAS

Sec. 51401. Modernizing Visas for Students.

TITLE V—SURGING RESOURCES TO EXPEDITE VISA PROCESSING

Sec. 51501. Surging Resources to Expedite Visa Processing.

DIVISION A—BORDER SECURITY FOR AMERICA ACT

SEC. 1100. SHORT TITLE.

This division may be cited as the “Border Security for America Act”.

TITLE I—BORDER SECURITY

SEC. 1101. DEFINITIONS.

In this title:

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

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

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

(4) OPERATIONAL ADVANTAGE.—The term “operational advantage” has the meaning given such term in the 2022–2026 U.S. Border Patrol Strategy (CBP Publication No. 1678–0222).

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

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

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

(8) TRANSIT ZONE.—The term “transit zone” has the meaning given such term in section 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(7)).
(9) **UNMANNED AERIAL SYSTEM.**—The term “unmanned aerial system” has the meaning given the term “unmanned aircraft system” in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

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

**Subtitle A—Infrastructure and Equipment**

**SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BARRIERS ALONG THE SOUTHERN BORDER.**

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

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

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

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in subparagraph (A)—

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

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

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

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

“(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—The Secretary, in carrying out this section, shall deploy along the United States border the most practical and effective physical barriers and tactical infrastructure
available for achieving situational awareness and operational advantage of the border.”;

(iii) in subparagraph (C)—

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

“(i) IN GENERAL.—In carrying out this section, the Secretary shall consult with appropriate Federal agency partners, appropriate representatives of Federal, State, Tribal, and local governments, and appropriate private property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such physical barriers are to be constructed.”; and

(II) in clause (ii)—

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

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

“(II) delay the transfer to the United States of the possession of
property or affect the validity of any property acquisition by the United States by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any State; and

(ee) by adding at the end the following new subclause:

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

(iv) by striking subparagraph (D);

(C) in paragraph (2)—

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

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

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

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

“(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, constructing, and deploying physical bar-
riers, tactical infrastructure, or technology, shall in-
corporate such safety features into such design, con-
struction, or deployment of such physical barriers,
tactical infrastructure, or technology, as the case
may be, that the Secretary determines are necessary
to maximize the safety and effectiveness of officers
or agents of the Department of Homeland Security
or of any other Federal agency deployed in the vicin-
ity of such physical barriers, tactical infrastructure,
or technology.”; and

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

(3) in subsection (c)—

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

“(1) IN GENERAL.—Notwithstanding any other
provision of law, the Secretary of Homeland Security
shall have the authority to waive all legal require-
ments the Secretary determines necessary to ensure
the expeditious design, testing, construction, instal-
lation, deployment, integration, and operation of the
physical barriers, tactical infrastructure, and tech-
ology under this section. Such waiver authority
shall also apply with respect to any maintenance car-
ried out on such physical barriers, tactical infra-
structure, or technology. Any such decision by the Secretary shall be effective upon publication in the Federal Register.”;

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

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

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

and

(4) by adding at the end the following new subsections:

“(e) TECHNOLOGY.—The Secretary of Homeland Security, in carrying out this section, shall deploy along the United States border the most practical and effective technology available for achieving situational awareness and operational advantage of the border.

“(f) DEFINITIONS.—In this section:

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

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

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

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

“(3) OPERATIONAL ADVANTAGE.—The term
‘operational advantage’ has the meaning given such
term in the 2022–2026 U.S. Border Patrol Strategy
(CBP Publication No. 1678–0222).

“(4) PHYSICAL BARRIERS.—The term ‘physical
barriers’ includes reinforced fencing, border barrier
system, and levee walls.

“(5) SITUATIONAL AWARENESS.—The term ‘sit-
uational awareness’ has the meaning given such
term in section 1092(a)(7) of the National Defense
Authorization Act for Fiscal Year 2017 (Public Law
114–328; 6 U.S.C. 223(a)(7)).
“(6) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps, access gates, checkpoints, lighting, and roads.

“(7) TECHNOLOGY.—The term ‘technology’ includes border surveillance and detection technology, including the following:

“(A) Tower-based surveillance technology.

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

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

“(D) 3-dimensional, seismic acoustic detection and ranging border tunneling detection technology.

“(E) Advanced unattended surveillance sensors.

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

“(G) Unmanned aircraft systems.

“(H) Other border detection, communication, and surveillance technology.

“(8) UNMANNED AIRCRAFT SYSTEM.—The term ‘unmanned aircraft system’ has the meaning given such term in section 44801 of title 49, United States Code.”
SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT HOURS.

(a) Air and Marine Operations Flight Hours.—The Secretary shall ensure that not fewer than 95,000 annual flight hours are carried out by Air and Marine Operations of CBP.

(b) Unmanned Aircraft Systems.—The Secretary, after coordination with the Administrator of the Federal Aviation Administration, shall ensure that Air and Marine Operations operate unmanned aircraft systems on the southern border of the United States for not less than 24 hours per day for 7 days per week.

(c) Primary Missions.—The Commissioner shall ensure that—

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

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

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

(2) the Executive Assistant Commissioner of Air and Marine Operations assigns the greatest priority to support missions outlined under paragraph (1).

(d) High Demand Flight Hour Requirements.—The Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—
(1) identify air support mission-critical hours;

and

(2) direct Air and Marine Operations to support requests from Sector Chiefs as their primary mission.

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

(f) SMALL UNMANNED AIRCRAFT SYSTEMS.—
(1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent with respect to the use of small unmanned aircraft systems by CBP for the purpose of—

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

and

(B) achieving situational awareness and operational advantage.

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

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

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

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

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

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

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

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

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

“(C) carry out the small unmanned aircraft system (as such term is defined in section 44801 of title 49, United States Code) requirements pursuant to subsection (f) of section
1113 of the Border Security for America Act;
and’’.

(g) SAVINGS CLAUSE.—Nothing in this section shall
confer, transfer, or delegate to the Secretary, the Commis-
sioner, the Executive Assistant Commissioner for Air and
Marine Operations of CBP, or the Chief of the U.S. Bor-
der Patrol any authority of the Secretary of Transpor-
tation or the Administrator of the Federal Aviation Ad-
ministration relating to the use of airspace or aviation
safety.

(h) DEFINITIONS.—In this section:

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

(2) TRANSIT ZONE.—The term “transit zone”
has the meaning given such term in section
1092(a)(8) of the National Defense Authorization
Act for Fiscal Year 2017 (Public Law 114–328; 6
U.S.C. 223(a)(8)).
SEC. 1113. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

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

“SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

“(a) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term ‘major acquisition program’ means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2023 constant dollars) over its life-cycle cost.

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

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

“(2) document that each such program is satisfying cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and
“(3) have a plan for satisfying program implementation objectives by managing contractor performance.

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

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

“(1) compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

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

(b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by striking the items relating to sections 435 and 436 and inserting the following new items:

“Sec. 435. Maritime operations coordination plan.
Sec. 436. Maritime security capabilities assessments.
Sec. 437. Border security technology program management.”.

(c) Prohibition on Additional Authorization of Appropriations.—No additional funds are authorized to be appropriated to carry out section 437 of the Homeland Security Act of 2002, as added by subsection (a).

SEC. 1114. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) Establishment of National Border Security Advisory Committee.—The Secretary shall establish a National Border Security Advisory Committee, which—

(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to border security matters, including—
(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

(2) may provide, through the Secretary, recommendations to Congress.

(b) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the National Border Security Advisory Committee in formulating policy regarding matters affecting border security.

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

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

(2) lives and works in the United States within 80 miles from the southern border or the northern border.
(d) **Nonapplicability of Federal Advisory Committee Act.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

**SEC. 1115. ERADICATION OF CARRIZO CANE AND SALT CEDAR.**

(a) **In General.**—The Secretary, in coordination with the heads of the relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any salt cedar along the Rio Grande River that impedes border security operations.

(b) **Extent.**—The waiver authority under subsection (c) of section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by section 1111 of this Act, shall extend to activities carried out pursuant to subsection (a).

**SEC. 1116. SOUTHERN BORDER THREAT ANALYSIS, BORDER PATROL STRATEGIC PLAN, AND NORTHERN BORDER THREAT ANALYSIS.**

(a) **Southern Border Threat Analysis.**—

(1) **Requirement.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental
Affairs of the Senate a Southern border threat analysis.

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

(A) current and potential terrorism and criminal threats posed by individuals and organized groups seeking—

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

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

(B) improvements needed at and between ports of entry along the Southern border to prevent terrorists and instruments of terror from entering the United States;

(C) gaps in law, policy, and coordination between State, local, or tribal law enforcement, international agreements, or tribal agreements that hinder effective and efficient border security, counterterrorism, and anti-human smuggling and trafficking efforts;

(D) the current percentage of situational awareness achieved by the Department along the Southern border;
(E) the current percentage of operational
advantage achieved by the Department on the
Southern border; and

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

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

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

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

(C) the infrastructure needs and chal-
lenges;

(D) the roles and authorities of State,
local, and tribal law enforcement in general bor-
der security activities;
(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(F) the terrain, population density, and climate along the Southern border; and

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

(4) Classified Form.—To the extent possible, the Secretary shall submit the Southern border threat analysis required under this subsection in unclassified form, but may submit a portion of the threat analysis in classified form if the Secretary determines such action is appropriate.

(b) In General.—Not later than one year after the date of enactment of this section and every 2 years thereafter, the Secretary, acting through the Chief of the U.S. Border Patrol, shall issue a Border Patrol Strategic Plan (referred to in this section as the “plan”) to enhance the security of the international borders of the United States.

(c) Elements.—The plan shall include the following:

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

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

(3) Information relating to efforts by U.S. Border Patrol to—
   (A) increase situational awareness, including—
        (i) surveillance capabilities, such as
capabilities developed or utilized by the
Department of Defense, and any appro-
priate technology determined to be excess
by the Department of Defense; and
        (ii) the use of manned aircraft and
unmanned aircraft systems;
   (B) detect and prevent terrorists and in-
struments of terrorism from entering the
United States;
   (C) detect, interdict, and disrupt human
smuggling, human trafficking, drug trafficking
and other illicit cross-border activity;
(D) focus intelligence collection to disrupt transnational criminal organizations outside of the international and maritime borders of the United States; and

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

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

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

(6) A description of cooperative agreements relating to information sharing with State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the border.

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

(A) State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the border or in the maritime environment; and
(B) border community stakeholders, including representatives from—

(i) border agricultural and ranching organizations; and

(ii) business and civic organizations.

(8) Information relating to the staffing requirements with respect to border security for the Department.

(9) A prioritized list of Department research and development objectives to enhance the security of the southern border.

(10) An assessment of training programs, including such programs relating to—

(A) identifying and detecting fraudulent documents;

(B) understanding the scope of CBP enforcement authorities and appropriate use of force policies; and

(C) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking.

(d) NORTHERN BORDER THREAT ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and
1 the Committee on Homeland Security and Governmental
2 Affairs of the Senate an update of the Northern Border
3 Threat Analysis as required in the Northern Border Secu-
4 rity Review Act (Public Law 114–267).
5
6 SEC. 1117. AMENDMENTS TO U.S. CUSTOMS AND BORDER
7 PROTECTION.
8
9 (a) DUTIES.—Subsection (c) of section 411 of the
10 Homeland Security Act of 2002 (6 U.S.C. 211) is amend-
11 ed—
12
13 (1) in paragraph (18), by striking “and” after
14 the semicolon at the end;
15
16 (2) by redesignating paragraph (19) as para-
17 graph (22); and
18
19 (3) by inserting after paragraph (18) the fol-
20 lowing new paragraphs:
21
22 “(19) administer the U.S. Customs and Border
23 Protection public private partnerships under subtitle
24 G;
25
26 “(20) administer preclearance operations under
27 the Preclearance Authorization Act of 2015 (19
28 U.S.C. 4431 et seq.; enacted as subtitle B of title
29 VIII of the Trade Facilitation and Trade Enforce-
30 ment Act of 2015; 19 U.S.C. 4301 et seq.);
31
32 “(21) authorize preclearance operations under
33 the Preclearance Authorization Act of 2015 (19
U.S.C. 4431 et seq.; enacted as subtitle B of title
VIII of the Trade Facilitation and Trade Enforce-
ment Act of 2015; 19 U.S.C. 4301 et seq.) to be
conducted at land ports of entry; and”.

(b) Office of Field Operations Staffing.—
Subparagraph (A) of section 411(g)(5) of the Homeland
Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended by
inserting before the period at the end the following: “com-
pared to the number indicated by the current fiscal year
work flow staffing model”.

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

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

(d) Definition.—Subsection (r) of section 411 of
the Homeland Security Act of 2002 (6 U.S.C. 211) is
amended—
(1) by striking “this section, the terms” and inserting the following: “this section:

“(1) the terms’’;

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

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

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

SEC. 1118. AGENT AND OFFICER TECHNOLOGY USE.

In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 1111 of this division) and section 1113 of this division, the Secretary shall, to the greatest extent practicable, ensure that technology deployed to gain situational awareness and operational advantage of the border be provided to front-line officers and agents of the Department of Homeland Security.

SEC. 1119. TUNNEL TASK FORCES.

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

SEC. 1120. PILOT PROGRAM ON USE OF ELECTROMAGNETIC SPECTRUM IN SUPPORT OF BORDER SECURITY OPERATIONS.

(a) IN GENERAL.—The Commissioner, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall conduct a pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and Border Protection in support of border security operations through—

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

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

(3) coordinated use of spectrum resources to better facilitate interoperability and interagency cooperation and interdiction efforts at or near the United States border.
(b) REPORT TO CONGRESS.—Not later than 180 days after the conclusion of the pilot program conducted under subsection (a), the Commissioner shall submit to the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings and data derived from such program.

SEC. 1121. FOREIGN MIGRATION ASSISTANCE.

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

“SEC. 439. FOREIGN MIGRATION ASSISTANCE.

“(a) IN GENERAL.—The Secretary, with the concurrence of the Secretary of State, may provide to a foreign government financial assistance for foreign country operations to address migration flows that may affect the United States.

“(b) DETERMINATION.—Assistance provided under subsection (a) may be provided only if such assistance would enhance the recipient government’s capacity to address irregular migration flows that may affect the United States.
States, including through related detention or removal operations by the recipient government, including procedures to screen and provide protection for certain individuals.

“(c) Reimbursement of Expenses.—The Secretary may, if appropriate, seek reimbursement from the receiving foreign government for the provision of financial assistance under this section.

“(d) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31, United States Code, any reimbursement collected pursuant to subsection (c) shall—

“(1) be credited as offsetting collections to the account that finances the financial assistance under this section for which such reimbursement is received; and

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

“(e) Effective Period.—The authority provided under this section shall remain in effect until September 30, 2028.

“(f) Development and Program Execution.—The Secretary and the Secretary of State shall jointly develop and implement any financial assistance under this section.
“(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.

“(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $50,000,000 for fiscal years 2024 through 2028 to carry out this section.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 438 the following new item:

“Sec. 439. Foreign migration assistance.”

SEC. 1122. BIOMETRIC IDENTIFICATION TRANSNATIONAL MIGRATION ALERT PROGRAM.

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

“SEC. 447. BIOMETRIC IDENTIFICATION TRANSNATIONAL MIGRATION ALERT PROGRAM.

“(a) ESTABLISHMENT.—There is established in the Department a program to be known as the Biometric Identification Transnational Migration Alert Program (referred to in this section as ‘BITMAP’) to address and reduce national security, border security, and public safety
threats before such threats reach the international border of the United States.

“(b) DUTIES.—In carrying out BITMAP operations, the Secretary, acting through the Director of U.S. Immigration and Customs Enforcement, shall—

“(1) provide, when necessary, capabilities, training, and equipment, to the government of a foreign country to collect biometric and biographic identification data from individuals to identify, prevent, detect, and interdict high-risk individuals identified as national security, border security, or public safety threats who may attempt to enter the United States utilizing illicit pathways;

“(2) provide capabilities to the government of a foreign country to compare foreign data against appropriate United States national security, border security, public safety, immigration, and counterterrorism data, including—

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

“(B) the Federal Bureau of Investigation’s Next Generation Identification database, or successor database;
“(C) the Department of Defense Automated Biometric Identification System (commonly known as ‘ABIS’), or successor database;

“(D) the Department’s Automated Biometric Identification System (commonly known as ‘IDENT’), or successor database; and

“(E) any other database, notice, or means that the Secretary, in consultation with the heads of other Federal departments and agencies responsible for such databases, notices, or means, designates; and

“(3) ensure biometric and biographic identification data collected pursuant to BITMAP are incorporated into appropriate United States Government databases, in compliance with the policies and procedures established by the Privacy Officer appointed under section 222.

“(c) COLLABORATION.—The Secretary shall ensure that BITMAP operations include participation from relevant components of the Department, and, as appropriate, request participation from other Federal agencies.

“(d) COORDINATION.—The Secretary shall coordinate with the Secretary of State, appropriate representatives of foreign governments, and the heads of other Fed-
eral agencies, as appropriate, to carry out paragraph (1) of subsection (b).

“(e) AGREEMENTS.—Before carrying out BITMAP operations in a foreign country that, as of the date of the enactment of this section, was not a partner country described in this section, the Secretary, with the concurrence of the Secretary of State, shall enter into an agreement or arrangement with the government of such country that outlines such operations in such country, including related departmental operations. Such country shall be a partner country described in this section pursuant to and for purposes of such agreement or arrangement.

“(f) NOTIFICATION TO CONGRESS.—Not later than 60 days before an agreement with the government of a foreign country to carry out BITMAP operations in such foreign country enters into force, the Secretary shall provide the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate with a copy of the agreement to establish such operations, which shall include—

“(1) the identification of the foreign country with which the Secretary intends to enter into such an agreement;
“(2) the location at which such operations will be conducted; and
“(3) the terms and conditions for Department personnel operating at such location.”.

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

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

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

SEC. 1123. BORDER AND PORT SECURITY TECHNOLOGY INVESTMENT PLAN.

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

(b) CONTENTS OF PLAN.—The plan shall include the following:

(1) An analysis of security risks with respect to ports of entry along the northern and southern borders of the United States.

(2) An identification of capability gaps with respect to security at such ports of entry.

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

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

(B) are unlawfully present in the United States.

(4) A description of security-related technology acquisitions that are listed in order of priority to address the security risks and capability gaps identified pursuant to paragraphs (1) and (2), respectively.
(5) A description of each planned security-related technology program, including objectives, goals, and timelines for each such program.

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

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

(8) An identification and assessment of ways to increase opportunities for communication and collaboration with industry, small and disadvantaged businesses, intra-government entities, university centers of excellence, and national laboratories to ensure CBP understands the market for security-related technologies that are available to satisfy its mission needs before engaging in an acquisition of a security-related technology.

(9) An assessment of the management of planned security-related technology programs by the acquisition workforce of CBP.
(10) An identification of ways to leverage already-existing acquisition expertise within the Federal Government.

(11) A description of the security resources, including information security resources, that will be required to protect security-related technology from physical or cyber theft, diversion, sabotage, or attack.

(12) A description of initiatives to—

(A) streamline the acquisition process of CBP; and

(B) provide greater predictability and clarity, with respect to such process, to small, medium, and large businesses, including information relating to the timeline for testing and evaluation.

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

(14) In the case of a new acquisition leading to the removal of equipment from a port of entry along the northern or southern border of the United States, a strategy to consult with industry and community stakeholders affected by such removal.
(15) A strategy to consult with industry and community stakeholders with respect to security impacts at a port of entry described in paragraph (14).

c) LEVERAGING THE PRIVATE SECTOR.—To the extent practicable, the plan shall—

(1) leverage to the greatest extent possible emerging technological trends, and research and development trends, within the public and private sectors;

(2) incorporate input from the private sector, including from border and port security stakeholders, through requests for information, industry day events, and other innovative means consistent with the Federal Acquisition Regulation; and

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

d) FORM.—To the extent practicable, the plan shall be published in unclassified form on the website of the Department.

e) APPROVAL.—The Commissioner may not publish the plan until the plan is approved by the Secretary.

f) DISCLOSURE.—The plan shall include a list of the names of individuals not employed by the Federal Government who contributed to the development of the plan.
(g) UPDATE AND REPORT.—Not later than the date that is two years after the date on which the plan is submitted to the appropriate congressional committees pursuant to subsection (a) and biennially thereafter for ten years, the Commissioner shall submit to the appropriate congressional committees—

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

(2) a report that includes—

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

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

(h) DEFINITIONS.—In this section:

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

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

(B) the Committee on Homeland Security and Governmental Affairs of the Senate.
(2) COVERED OFFICIALS.—The term “covered officials” means—

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

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

(C) the Chief Information Officer of the Department.

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

SEC. 1124. COMMERCIAL SOLUTIONS OPENING ACQUISITION PROGRAM.

(a) AUTHORITY.—The Commissioner may carry out a program, to be known as the “commercial solutions opening acquisition program” (in this section referred to as the “program”), under which commercial items that are innovative may be acquired through a competitive selection of proposals resulting from a general solicitation and peer review of such proposals.

(b) TREATMENT AS COMPETITIVE PROCEDURES.—Use of general solicitation competitive procedures for the program shall be considered to be use of competitive pro-
cedures for purposes of division C of title 41, United States Code.

(c) LIMITATION.—The Commissioner may not enter into a contract under the program for an amount in excess of $10,000,000.

(d) GUIDANCE.—The Commissioner, in consultation with the Under Secretary for Management of the Department, shall—

(1) issue guidance for the implementation of the program; and

(2) post such guidance on a publicly available website of CBP.

(e) REPORT.—

(1) IN GENERAL.—The Commissioner shall submit to the appropriate congressional committees a report relating to the activities of the program as an addendum to the annual budget request submission of the Commissioner.

(2) ELEMENTS.—Each report required under paragraph (1) shall include—

(A) an assessment of the impact of the program with respect to competition;

(B) a comparison of acquisition timelines of procurements made using—

(i) the program; and
(ii) other competitive procedures that do not rely on general solicitations; and

(C) a recommendation with respect to whether the authority for the program should be extended beyond the date of termination specified in subsection (f).

(f) TERMINATION.—The program shall terminate on September 30, 2028.

(g) DEFINITIONS.—In this section:

(1) COMPETITIVE PROCEDURES.—The term “competitive procedures” has the meaning given such term in section 152 of title 41, United States Code.

(2) INNOVATIVE.—The term “innovative” means any new—

(A) technology, process, or method, including research and development; or

(B) application of an existing technology, process, or method.

SEC. 1125. U.S. CUSTOMS AND BORDER PROTECTION TECHNOLOGY UPGRADES.

(a) SECURE COMMUNICATIONS.—The Commissioner shall ensure that each CBP officer or agent, if appropriate, is equipped with a secure radio or other two-way
communication device that allows each such officer or agent to communicate—
(1) between ports of entry and inspection stations; and
(2) with other Federal, State, Tribal, and local law enforcement entities.

(b) BORDER SECURITY DEPLOYMENT PROGRAM.—
(1) EXPANSION.—Not later than 1 year after the enactment of this Act, the Commissioner shall fully implement the Border Security Deployment Program of CBP and expand the integrated surveillance and intrusion detection system at land ports of entry along the northern and southern borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal years 2024 and 2025 to carry out paragraph (1).

(c) UPGRADE OF LICENSE PLATE READERS AT PORTS OF ENTRY.—
(1) UPGRADE.—Not later than two years after the date of the enactment of this section, the Commissioner shall upgrade all existing license plate readers in need of upgrade, as determined by the
Commissioner, on the northern and southern borders of the United States.

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

(d) Biometric Exit Data System.—

(1) In general.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et seq.) is amended by adding at the end the following new section:

```
SEC. 420. BIOMETRIC EXIT DATA SYSTEM.

“(a) Establishment.—The Secretary shall—

“(1) not later than 180 days after the date of the enactment of this section, submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate an implementation plan to establish a biometric exit data system to complete the integrated biometric entry and exit data system required under section 7208 of the Intelligence Reform and
```
Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
including—

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

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

“(C) a consideration of training programs
necessary to establish such a system that takes
into account prior reports on such matters
issued by the Government Accountability Office
and the Department;

“(D) a consideration of how such a system
will affect arrival and departure wait times that
takes into account prior reports on such mat-
ters issued by the Government Accountability
Office and the Department;
“(E) a consideration of audit capability for systems procured in partnership with the private sector to achieve biometric exit;

“(F) information received after consultation with the private sector, including the—

“(i) trucking industry;

“(ii) airport industry;

“(iii) airline industry;

“(iv) seaport industry;

“(v) travel industry; and

“(vi) biometric technology industry;

“(G) a consideration of how trusted traveler programs in existence as of the date of the enactment of this section may be impacted by, or incorporated into, such a system;

“(H) defined metrics of success and milestones;

“(I) identified risks and mitigation strategies to address such risks;

“(J) a consideration of how other countries have implemented a biometric exit data system;

“(K) a consideration of stakeholder privacy concerns; and

“(L) a list of statutory, regulatory, or administrative authorities, if any, needed to inte-
grate such a system into the operations of the
Transportation Security Administration; and
“(2) not later than two years after the date of
the enactment of this section, establish a biometric
exit data system at—
“(A) the 15 United States airports that
support the highest volume of international air
travel, as determined by available Federal flight
data;
“(B) the 10 United States seaports that
support the highest volume of international sea
travel, as determined by available Federal travel
data; and
“(C) the 15 United States land ports of
entry that support the highest volume of vehi-
cle, pedestrian, and cargo crossings, as deter-
mined by available Federal border crossing
data.
“(b) IMPLEMENTATION.—
“(1) PILOT PROGRAM AT LAND PORTS OF
ENTRY.—Not later than six months after the date of
the enactment of this section, the Secretary, in col-
laboration with industry stakeholders specified in
subsection (a)(1)(F), shall establish a six-month
pilot program to test the biometric exit data system
referred to in subsection (a)(1) on nonpedestrian
outbound traffic at not fewer than three land ports
of entry with significant cross-border traffic, includ-
ing at not fewer than two land ports of entry on the
southern land border and at least one land port of
entry on the northern land border. Such pilot pro-
gram may include a consideration of more than one
biometric mode, and shall be implemented to deter-
mine the following:

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

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

“(C) The effects of such pilot program
on—

“(i) legitimate travel and trade;

“(ii) wait times, including processing
times, for such non-pedestrian traffic;

“(iii) combating terrorism; and

“(iv) identifying visa holders who vio-
late the terms of their visas.

“(2) AT LAND PORTS OF ENTRY.—

“(A) IN GENERAL.—Not later than five
years after the date of the enactment of this
section, the Secretary shall expand to all land
ports of entry the biometric exit data system es-
established pursuant to subsection (a)(2).

“(B) EXTENSION.—The Secretary may ex-
tend for a single two-year period the date speci-
fied in subparagraph (A) if the Secretary cer-
tifies to the Committee on Homeland Security
and the Committee on the Judiciary of the
House of Representatives and the Committee
on Homeland Security and Governmental Af-
fairs and the Committee on the Judiciary of the
Senate that the 15 land ports of entry that sup-
port the highest volume of vehicle, pedestrian,
and cargo crossings, as determined by available
Federal border crossing data, do not have the
physical infrastructure or characteristics to in-
stall the systems necessary to implement a bio-
metric exit data system. Such extension shall
apply only in the case of nonpedestrian out-
bound traffic at such land ports of entry.

“(3) AT AIR AND SEA PORTS OF ENTRY.—Not
later than five years after the date of the enactment
of this section, the Secretary shall expand to all air
and sea ports of entry the biometric exit data system
referred to in subsection (a)(2).
“(c) Effects on Air, Sea, and Land Transportation.—The Secretary, in consultation with appropriate industry stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea, or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

“(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (‘US–VISIT’), issued on April 24, 2008 (73 Fed. Reg. 22065).

“(e) Data Matching.—The biometric exit data system established under this section shall—

“(1) match biometric information for an individual, regardless of nationality, citizenship, or immigration status, who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;
“(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

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

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

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

“(f) SCOPE.—

“(1) IN GENERAL.—The biometric exit data system established under this section shall include a requirement for the collection of biometric exit data at the time of departure for all categories of individuals who are required by the Secretary to provide biometric entry data.

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

“(3) Exception for land ports of entry.—This section shall not apply in the case of a United States or Canadian citizen who exits the United States through a land port of entry.

“(g) Collection of data.—The Secretary may not require any non-Federal person to collect biometric data, or contribute to the costs of collecting or administering the biometric exit data system established under this section, except through a mutual agreement.

“(h) Multimodal collection.—In carrying out subsections (a)(1) and (b), the Secretary shall make every effort to collect biometric data using multiple modes of biometrics.

“(i) Facilities.—

“(1) In general.—All facilities at which the biometric exit data system established under this section is implemented shall provide and maintain space for Federal use that is adequate to support biometric data collection and other inspection-related activity.

“(2) Non-federal facilities.—With respect to each non-Federal facility at which the biometric exit data system is implemented pursuant to para-
graph (1), the space required under such paragraph shall be provided and maintained at no cost to the Federal Government.

“(3) LAND PORTS OF ENTRY.—With respect to each facility at a land port of entry at which the biometric exit data system is implemented pursuant to paragraph (1), the space required under such paragraph shall be coordinated with the Administrator of General Services.

“(j) NORTHERN LAND BORDER.—With respect to the northern land border, the requirements under subsections (a)(2)(C), (b)(2)(A), and (b)(3) may be achieved through the sharing of biometric data provided to the Department by the Canadian Border Services Agency pursuant to the 2011 Beyond the Border agreement.

“(k) FULL AND OPEN COMPETITION.—The Secretary shall procure goods and services to implement this section through full and open competition in accordance with the Federal Acquisition Regulation.

“(l) OTHER BIOMETRIC INITIATIVES.—Nothing in this section may be construed as limiting the authority of the Secretary to collect biometric information in circumstances other than as specified in this section.

“(m) CONGRESSIONAL REVIEW.—Not later than 90 days after the date of the enactment of this section, the
Secretary shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate reports and recommendations regarding the Directorate of Science and Technology’s Air Entry and Exit Re-Engineering Program and the U.S. Customs and Border Protection entry and exit mobility program demonstrations.

“(n) SAVINGS CLAUSE.—Nothing in this section may prohibit the collection of user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”.

(2) AUTHORIZATION OF APPROPRIATIONS.—
There is authorized to be appropriated $50,000,000 for each of fiscal years 2024 and 2025 to carry out section 420 of the Homeland Security Act of 2002, as added by this subsection.

(3) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 419 the following new item:

“Sec. 420. Biometric exit data system.”.
SEC. 1126. NONINFRINGEMENT INSPECTION OPERATIONS.

The Secretary shall fully implement the requirements of the Securing America’s Ports Act (Public Law 116–299; 6 U.S.C. 211 note).

SEC. 1127. HOMELAND SECURITY INVESTIGATIONS INNOVATION LAB.

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

“SEC. 463. INNOVATION LAB.

“(a) Establishment.—

“(1) In General.—There is established within the Department a program to be known as the ‘Homeland Security Investigations Innovation Lab’ (referred to in this section as the ‘Innovation Lab’).

“(2) Assistant Director.—The Innovation Lab shall be headed by an Assistant Director, who shall be appointed by the Executive Associate Director of United States Immigration and Customs Enforcement, Homeland Security Investigations.

“(b) Purpose.—The purpose of the Innovation Lab shall be to improve investigative efficiency and mission-critical outcomes by enhancing and streamlining data processing, agility, assessment, visualization, and analysis of homeland security data, using innovative and emerging technologies and best practices for design principles. Inno-
vation Lab efforts shall be informed by designated field
agents and analysts with relevant experience.

“(c) Co-LOCATION.—The Secretary shall, if prac-
ticable, co-locate Innovation Lab personnel and office
space with other existing assets of—

“(1) the Department, where possible; or

“(2) Federal facilities, where appropriate.

“(d) COMPOSITION.—The Innovation Lab shall be
comprised of personnel from the following:

“(1) Homeland Security Investigations of U.S.
Immigration and Customs Enforcement.

“(2) Other appropriate agencies as determined
by the Secretary.

“(3) The private sector (through advisory part-
nerships), including developers with specializations
in innovative and emerging technology, backend ar-
chitecture, or user interface design.

“(4) Academic institutions (through advisory
partnerships), including members from the Depart-
ment of Homeland Security Centers of Excellence.

“(e) PRIORITIZATION.—The Innovation Lab shall
prioritize new projects based on communicated investiga-
tive challenges experienced by each Homeland Security In-
vestigations field office. Such communication may be in-
corporated in existing annual threat analyses conducted by Homeland Security Investigations.

“(f) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Innovation Lab.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $24,700,000 for fiscal year 2024 and $27,700,000 for fiscal year 2025 to carry out this section.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 462 the following new item:

“Sec. 463. Innovation lab.”.

SEC. 1128. REPORT ON STANDARDS AND GUIDELINES FOR MANAGING PORTS OF ENTRY UNDER THE CONTROL OF THE DEPARTMENT OF HOME- LAND SECURITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Commerce, shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains an assessment of the standards and guidelines for managing ports of entry under the
control of the Department of Homeland Security. Such assess-
ment shall include information relating to the follow-
ing:

(1) Staffing levels and need for additional staffing.

(2) Rules governing the actions of Office of Field Operations officers.

(3) Average delays for transit through air, land, and sea ports of entry.

(4) Assessment of existing efforts and technologies used for border security, and the effect of the use of such efforts and technologies on facilitating trade at ports of entry and their impact on civil rights, private property rights, privacy rights, and civil liberties.

(5) Economic impact of the policies and practices of CBP Agricultural Specialists and Office of Field Operations personnel.

(6) Physical infrastructure and technological needs at ports of entry.

(7) Data reflecting the specific needs of geographically separate ports of entry within the same U.S. Border Patrol sector.

(b) Report on Port Runners.—Not later than 180 days after the date of the enactment of this Act, the
Secretary of Homeland Security shall submit a report that contains an assessment of instances of “Port Running”, or departing the United States before officers can conclude traveler inspections, which shall include recommendations for new security enhancements, including traffic barricades, to slow and deter individuals from leaving the United States without authorization.

Subtitle B—Personnel

SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PROTECTION PERSONNEL.

(a) Border Patrol Agents.—Not later than September 30, 2025, the Commissioner shall hire, train, and assign agents to maintain an active duty presence of—

(1) not fewer than 22,478 full-time equivalent CBP agents; and

(2) not fewer than 1,200 CBP processing coordinators.

(b) CBP Officers.—In addition to positions authorized before the date of the enactment of this section and any existing officer vacancies within CBP as of such date, the Commissioner shall, not later than September 30, 2025, hire, train, and assign to duty sufficient CBP officers to maintain an active duty presence of—

(1) not fewer than 27,725 full-time equivalent officers; and
(2) the required associated full-time support staff distributed among all United States ports of entry.

(c) AIR AND MARINE OPERATIONS.—Not later than September 30, 2025, the Commissioner shall hire, train, and assign agents for Air and Marine Operations of CBP to maintain not fewer than 1,675 full-time equivalent agents.

(d) CBP K–9 UNITS AND HANDLERS.—

(1) K–9 UNITS.—Not later than September 30, 2025, the Commissioner shall deploy not fewer than 200 new K–9 units, with supporting officers of CBP and other required staff, at land ports of entry and checkpoints, along the northern and southern borders of the United States.

(2) USE OF CANINES.—The Commissioner shall prioritize the use of K–9 units at the primary inspection lanes at land ports of entry and checkpoints.

(e) CBP TUNNEL DETECTION AND REMEDIATION.—

Not later than September 30, 2025, the Commissioner shall increase by not fewer than 50 the number of CBP officers assisting task forces and activities related to—

(1) the deployment and operation of border tunnel detection technology;
(2) the apprehension of individuals using such tunnels for—

(A) unlawfully entering the United States;

(B) drug trafficking; or

(C) human smuggling; and

(3) the remediation of such illicit tunnels.

(f) AGRICULTURAL SPECIALISTS.—In addition to the officers and agents authorized under subsections (a) through (e), by September 30, 2025, the Commissioner shall carry out section 4 of the Protecting America’s Food and Agriculture Act of 2019 (Public Law 116–122; 6 U.S.C. 211 note).

(g) U.S. CUSTOMS AND BORDER PROTECTION OFFICE OF INTELLIGENCE.—Not later than September 30, 2025, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to maintain not fewer than 500 full-time equivalent employees.

(h) GAO REPORT.—If the staffing levels required under this section are not achieved by September 30, 2025, the Comptroller General of the United States shall conduct a review of the reasons why such levels were not achieved.
SEC. 1142. U.S. CUSTOMS AND BORDER PROTECTION RETENTION INCENTIVES.

(a) In general.—Chapter 97 of title 5, United States Code, is amended by adding at the end the following:

§ 9702. U.S. Customs and Border Protection temporary employment authorities

“(a) Definitions.—In this section—

“(1) the term ‘appropriate congressional committees’ means the Committee on Oversight and Government Reform, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate;

“(2) the term ‘CBP employee’ means an employee of U.S. Customs and Border Protection described under any of subsections (a) through (h) of section 1134 of the Border Security for America Act;

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

“(4) the term ‘Director’ means the Director of the Office of Personnel Management; and

“(5) the term ‘Secretary’ means the Secretary of Homeland Security.
“(b) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

“(1) Statement of purpose and limitation.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and staffing levels required by the Border Security for America Act. The Secretary shall not use this authority beyond meeting the requirements of such section.

“(2) Direct hire authority.—The Secretary may appoint, without regard to any provision of sections 3309 through 3319, candidates to positions in the competitive service as CBP employees if the Secretary has given public notice for the positions.

“(3) Recruitment and relocation bonuses.—The Secretary may pay a recruitment or relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year) in the required service period to an individual (other than an individual described in subsection (a)(2) of section 5753) if—

“(A) the Secretary determines that conditions consistent with the conditions described in
paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to the regulations referenced in subsection (b)(2)(B)(ii)(I) of such section or to any other provision of that section); and

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

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

“(ii) that includes—

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

“(II) the amount of the bonus; and

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

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

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

“(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent of basic pay to an individual CBP employee (other than an individual described in subsection (a)(2) of section 5754) if—

“(A) the Secretary determines that—

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

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

“(I) the Federal service; or

“(II) for a different position in the Federal service, including a position in another agency or component of the Department of Homeland Security; and
“(B) the individual enters into a written service agreement with the Secretary—

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

“(ii) that includes—

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

“(II) the amount of the bonus; and

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

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

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

“(5) Rules for Bonuses.—
“(A) **MAXIMUM BONUS.—** A bonus paid to an employee under—

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

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

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

“(C) **PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES.—**

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

“(c) SPECIAL RATES OF PAY.—In addition to the circumstances described in subsection (b) of section 5305, the Director may establish special rates of pay in accordance with that section to assist the Secretary in meeting the requirements of the Border Security for America Act. The Director shall prioritize the consideration of requests from the Secretary for such special rates of pay and issue a decision as soon as practicable. The Secretary shall provide such information to the Director as the Director deems necessary to evaluate special rates of pay under this subsection.

“(d) OPM OVERSIGHT.—

“(1) Not later than September 30 of each year, the Secretary shall provide a report to the Director on U.S. Custom and Border Protection’s use of authorities provided under subsections (b) and (c). In each report, the Secretary shall provide such information as the Director determines is appropriate to ensure appropriate use of authorities under such
subsection. Each report shall also include an assessment of—

“(A) the impact of the use of authorities under subsections (b) and (c) on implementation of section 1134 of the Border Security for America Act;

“(B) solving hiring and retention challenges at the agency, including at specific locations;

“(C) whether hiring and retention challenges still exist at the agency or specific locations; and

“(D) whether the Secretary needs to continue to use authorities provided under this section at the agency or at specific locations.

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

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

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

“(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report required under this subsection to the appropriate congressional committees.

“(e) OPM ACTION.—If the Director determines the Secretary has inappropriately used authorities under subsection (b) or a special rate of pay provided under subsection (c), the Director shall notify the Secretary and the appropriate congressional committees in writing. Upon receipt of the notification, the Secretary may not make any new appointments or issue any new bonuses under subsection (b), nor provide CBP employees with further special rates of pay, until the Director has provided the Secretary and the appropriate congressional committees a written notice stating the Director is satisfied safeguards are in place to prevent further inappropriate use.

“(f) IMPROVING CBP HIRING AND RETENTION.—

“(1) EDUCATION OF CBP HIRING OFFICIALS.—

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

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

“(A) Developing or updating training and
educational materials on hiring and human re-
sources flexibilities for employees who are in-
volved in the recruitment, hiring, assessment, or
selection of candidates, as well as the retention
of current employees.

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

“(C) The development of pilot programs or
other programs, as appropriate, consistent with
authorities provided to the Secretary to address
identified hiring challenges, including in rural
or remote areas.
“(D) Developing and enhancing strategic recruiting efforts through the relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

“(E) Examination of existing agency programs on how to most effectively aid spouses and families of individuals who are candidates or new hires in a rural or remote area.

“(F) Feedback from individuals who are candidates or new hires at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for new hires and their families.

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

“(H) Evaluation of Department of Homeland Security internship programs and the use-
fulness of those programs in improving hiring by the Secretary in rural or remote areas.

“(3) Evaluation.—

“(A) In general.—Each year, the Secretary shall—

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

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

“(B) Information.—The evaluation conducted under subparagraph (A) shall include—

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

“(ii) a general assessment of the impact of the strategy implemented under paragraph (1) on hiring challenges, including in rural or remote areas; and

“(iii) other information the Secretary determines relevant.

“(g) Inspector General Review.—Not later than two years after the date of the enactment of this section, the Inspector General of the Department of Homeland Se-
curity shall review the use of hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such flexibilities is helping the Secretary meet hiring and retention needs, including in rural and remote areas.

“(h) EXERCISE OF AUTHORITY.—

“(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining agreement.

“(2) DELEGATION.—The Secretary may delegate any authority under this section to the Commissioner.

“(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to exempt the Secretary or the Director from applicability of the merit system principles under section 2301.

“(j) SUNSET.—The authorities under subsections (b) and (c) shall terminate on September 30, 2028. Any bonus to be paid pursuant to subsection (b) that is approved before such date may continue until such bonus has been paid, subject to the conditions specified in this section.”.
(b) TECHNICAL AND CONFORMING AMENDMENT.—

The table of sections for chapter 97 of title 5, United States Code, is amended by adding at the end the following:

“9702. U.S. Customs and Border Protection temporary employment authorities.”

SEC. 1143. ANTI-BORDER CORRUPTION ACT REAUTHORIZATION.

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

“(b) WAIVER AUTHORITY.—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1)—

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

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

“(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;
“(C) is not currently under investigation, has not been found to have engaged in criminal activity or serious misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

“(D) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer’s current law enforcement agency;

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

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

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

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

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

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

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

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

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

“(D) received, or is eligible to receive, an honorable discharge from service in the Armed Forces and has not engaged in criminal activity or committed a serious military or civil offense under the Uniform Code of Military Justice; and
“(E) was not granted any waivers to obtain the clearance referred to in subparagraph (B).

“(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is four years after the date of the enactment of the Border Security for America Act.”.

(b) SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.—

(1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—The Anti-Border Corruption Act of 2010 is amended by adding at the end the following new section:

“SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

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

“(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under section 3(b) who holds a current Tier 4 background investigation shall be subject to a Tier 5 background investigation.
“(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver under section 3(b) if information is discovered before the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.”.

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

“SEC. 6. REPORTING.

“(a) Annual Report.—Not later than one year after the date of the enactment of this section and annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner of U.S. Customs and Border Protection shall submit to Congress a report that includes, with respect to each such reporting period—

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

“(2) the reasons for any denials of such waiver;
“(3) the percentage of applicants who were hired after receiving a waiver;

“(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

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

“(6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals.

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

“(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

“(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).”.
(3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs (1) and (2), is further amended by adding at the end the following new section:

```
“SEC. 7. DEFINITIONS.

“In this Act:

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

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

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

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

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

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

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

SEC. 1144. TRAINING FOR OFFICERS AND AGENTS OF U.S. CUSTOMS AND BORDER PROTECTION.

(a) In General.—Subsection (l) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended to read as follows:

“(l) Training and Continuing Education.—

“(1) Mandatory training.—The Commissioner shall ensure that every agent and officer of U.S. Customs and Border Protection receives a minimum of 21 weeks of training that are directly related to the mission of the U.S. Border Patrol, Air and Marine, and the Office of Field Operations before the initial assignment of such agents and officers.
“(2) FLETC.—The Commissioner shall work in consultation with the Director of the Federal Law Enforcement Training Centers to establish guidelines and curriculum for the training of agents and officers of U.S. Customs and Border Protection under subsection (a).

“(3) CONTINUING EDUCATION.—The Commissioner shall annually require all agents and officers of U.S. Customs and Border Protection who are required to undergo training under subsection (a) to participate in not fewer than eight hours of continuing education annually to maintain and update understanding of Federal legal rulings, court decisions, and Department policies, procedures, and guidelines related to relevant subject matters.

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

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

(c) ASSESSMENT.—Not later than four years after
the date of the enactment of this Act, the Comptroller
General of the United States shall submit to the Com-
mittee on Homeland Security and the Committee on Ways
and Means of the House of Representatives and the Com-
mittee on Homeland Security and Governmental Affairs
and the Committee on Finance of the Senate a report that
assesses the training and education, including continuing
education, required under subsection (l) of section 411 of
the Homeland Security Act of 2002, as amended by sub-
section (a) of this section.

SEC. 1145. ESTABLISHMENT OF WORKLOAD STAFFING MOD-
ELS FOR U.S. BORDER PATROL AND AIR AND
MARINE OPERATIONS OF CBP.

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

(1) The U.S. Border Patrol.
(2) Air and Marine Operations of CBP.

(b) Responsibilities of the Commissioner of CBP.—Subsection (c) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211), is amended—

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

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

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

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

(c) Report.—

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

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

(B) each relevant workload staffing model.

(2) Data sources and methodology required.—Each report required under paragraph (1) shall include information relating to the data sources and methodology used to generate such staffing models.
(d) Inspector General Review.—Not later than 120 days after the Commissioner develops the workload staffing models pursuant to subsection (a), the Inspector General of the Department shall review such model and provide feedback to the Secretary and the appropriate congressional committees with respect to the degree to which such model is responsive to the recommendations of the Inspector General, including—

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

(2) any further recommendations to improve such model.

(e) Appropriate Congressional Committees Defined.—In this section, the term “appropriate congressional committees” means—

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

(2) the Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 1146. U.S. BORDER PATROL PROCESSING COORDINATOR POSITIONS.

(a) Processing Coordinators.—The Commissioner of U.S. Customs and Border Protection is authorized to hire and train U.S. Border Patrol Processing Coordinators to operate within the U.S. Border Patrol to—
(1) perform administrative tasks related to the intake and processing of individuals apprehended by U.S. Border Patrol agents, where necessary;

(2) transport individuals in U.S. Border Patrol custody, where necessary; and

(3) perform custodial watch duties of individuals in such custody, including individuals who have been admitted to a hospital.

(b) CLARIFIED AUTHORITIES.—A U.S. Border Patrol Processing Coordinator hired under subsection (a) may not arrest or otherwise detain any person as described in section 235, 236, or 287(a), of the Immigration and Nationality Act (8 U.S.C. 1225, 1226, and 1357(a)), and such a Coordinator may not conduct any interview under section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)).

(c) TRAINING.—The Commissioner of U.S. Customs and Border Protection, in coordination with the Chief of the U.S. Border Patrol and in consultation with the Director of the Federal Law Enforcement Training Centers, shall develop tailored training for U.S. Border Patrol Processing Coordinators.

(d) ASSOCIATED SUPPORT STAFF.—The Commissioner of U.S. Customs and Border Protection is authorized to hire appropriate professional support staff to facili-
state the hiring, training, and other support functions re-
quired by U.S. Border Patrol Processing Coordinators.

(e) BIENNIAL REPORTS.—Not later than 180 days
after the date of the enactment of this Act and biannually
thereafter for the following two years, the Secretary of
Homeland Security shall submit to the Committee on
Homeland Security of the House of Representatives and
the Committee on Homeland Security and Governmental
Affairs of the Senate a report regarding each U.S. Border
Patrol sector that includes information relating to the fol-
lowing:

(1) The number of U.S. Border Patrol Proces-
sing Coordinators assigned to each such sector.

(2) The degree to which the responsibilities de-
scribed in subsection (a) have been transferred from
U.S. Border Patrol agents to U.S. Border Patrol
Processing Coordinators.

(3) The percentage of U.S. Border Patrol
agents who returned to field operations as a result
of U.S. Border Patrol Processing Coordinators un-
dertaking the responsibilities described in subsection
(a).
SEC. 1147. ESTABLISHMENT OF HIGHER MINIMUM RATES OF PAY FOR UNITED STATES BORDER PATROL AGENTS.

(a) HIGHER MINIMUM RATE OF PAY.—Not later than 180 days after the enactment of this Act, the Director of the Office of Personnel Management—

(1) shall, in accordance with section 5305 of title 5, United States Code—

(A) increase the minimum rate of pay for United States Border Patrol agents at the grade GS–12 of the General Schedule by not less than 14 percent; and

(B) increase other grades or levels, occupational groups, series, classes, or subdivisions thereof, as determined by the Secretary of Homeland Security;

(2) take such actions as may be necessary to harmonize—

(A) pay levels for U.S. Border Patrol agents and CBP officers at each pay scale in a manner so as to ensure greater or the same level of pay; and

(B) such other pay incentives and overtime scales; and
(3) may make increases in all rates in the pay range for each such grade or level, in accordance with such section 5305.

(b) **INAPPLICABILITY.**—The discretion granted to agency heads under section 5305(a)(2) of title 5, United States Code, shall not apply to increase in rates of pay authorized under subsection (a).

**SEC. 1148. BODY WORN CAMERA PILOT PROGRAM AUTHORIZATION.**

The Body Worn Camera Pilot Program referred to in H. Rept. 116-458, Department of Homeland Security Appropriations Act, 2021, shall be authorized for 5 fiscal years after the date of enactment of this Act.

**SEC. 1149. PROTECTING SENSITIVE LOCATIONS.**

(a) **SHORT TITLE.**—This section may be cited as the “Protecting Sensitive Locations Act”.

(b) **POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES AT PROTECTED AREAS.**—

(1) **IN GENERAL.**—Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at the end the following:

```
“(i)(1) Except as otherwise provided, an officer or an agent of the U.S. Immigration and Customs Enforcement or the U.S. Customs and Border Pro-
```
tection may not take an immigration enforcement action in or near a protected area.

“(2) Paragraph (1) does not apply—

“(A) whenever prior approval has been obtained; or

“(B) under exigent circumstances (including, but not limited to, an immigration enforcement action that involves a national security threat, the hot pursuit of an individual who poses a public safety threat, or the hot pursuit of an individual who was observed crossing the border; that involves the imminent risk of death, violence, or physical harm to a person or the imminent risk that evidence material to a criminal case will be destroyed; or where a safe alternative location does not exist).

“(3) When taking an immigration enforcement action in or near a protected area, an officer or an agent of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection shall, to the fullest extent possible—

“(A) take the immigration enforcement action in a non-public area or in a manner that minimizes the effect on another person who is accessing the protected area;
“(B) limit the time spent in or near the protected area; and

“(C) limit the immigration enforcement action to the person who is the subject of such enforcement action.

“(4) If an immigration enforcement action is taken due to exigent circumstances, the officer of agent shall inform the Director of U.S. Immigration and Customs Enforcement (or the Director’s designee) or the Commissioner of U.S. Customs and Border Protection (or the Commissioner’s designee) as the case may be, as soon as practical thereafter.

“(5)(A) At the time the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the immigration enforcement actions in or near a protected area that U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection undertook during the preceding fiscal year.

“(B) Each report submitted pursuant to subparagraph (A) shall set forth the following:
“(i) The number of immigration enforcement actions that occurred in or near a protected area.

“(ii) The number of immigration enforcement actions where officers or agents were subsequently led into or near a protected area.

“(iv) The component responsible for each immigration enforcement action that occurred in or near a protected area.

“(v) A summary of each immigration enforcement action that occurred in or near a protected area, excluding any personally identifiable information linked to an individual.

“(vi) The number of individuals, if any, whom U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection arrested or took into custody through each immigration enforcement action that occurred in or near a protected area.

“(vii) The number of instances during an immigration enforcement action in or
near a protected area for which prior approval was obtained.

“(6) In this subsection:

“(A) The term ‘appropriate committees of Congress’ means—

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

“(ii) the Committee on the Judiciary of the Senate;

“(iii) the Committee on Homeland Security of the House of Representatives;

“(iv) the Committee on the Judiciary of the House of Representatives;

“(v) the Committee on Appropriations of the House of Representatives; and

“(vi) the Committee on Appropriations of the Senate.

“(B) The term ‘immigration enforcement action’ means an arrest, search, service of a subpoena or a notice to appear in immigration court, or other immigration enforcement action.

“(C) The term ‘prior approval’ means—

“(i) in the case of an immigration enforcement action that an officer or an
agent of U.S. Immigration and Customs Enforcement will take, prior written approval from the Director (or the Director’s designee); and

“(ii) in the case of an immigration enforcement action that an officer or an agent of U.S. Customs and Border Protection will take, prior written approval from the Commissioner (or the Commissioner’s designee).

“(D) The term ‘protected area’ includes a structure or a place that provides essential services or at which a person would engage in an essential activity, including—

“(i) any school;

“(ii) any medical facility, a mental health facility, or other health care facility;

“(iii) any place of worship or religious study, whether in a structure dedicated to activities of faith or a temporary facility or location where such activities are taking place;

“(iv) any structure or place, the purpose of which is for children to gather;
“(v) any structure or place, the purpose of which is to provide social services;

“(vi) any structure or place, the purpose of which is to provide disaster or emergency assistance or emergency relief;

“(vii) a place where a funeral, grave-side ceremony, rosary, wedding, or other religious or civil ceremonies or observances occur; or

“(vii) place where there is an ongoing parade, demonstration, or rally.

“(7) For the purposes of this subsection, the Secretary of Homeland Security shall promulgate guidance, in the exercise of his discretion, on the physical distance that constitutes "in or near a protected area."

(2) GUIDANCE.—Nothing in this section (or the amendments therein) shall be construed to—

(A) supersede or rescind the Guidance on Enforcement Actions in or Near Protected Areas that the Secretary of Homeland Security published on October 27, 2021;

(B) supersede or rescind any Department of Homeland Security guidance that was in effect on the date of enactment of this Act; or
(C) compel the Secretary of Homeland Security to amend or issue guidance, except that the Secretary may amend guidance to comport with this section.

**Subtitle C—Grants**

**SEC. 1161. OPERATION STONEGARDEN.**

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

“SEC. 2009A. OPERATION STONEGARDEN.

“(a) Establishment.—There is established in the Department a program to be known as ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall make grants to eligible law enforcement agencies, through the State administrative agency, to enhance border security in accordance with this section.

“(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law enforcement agency—

“(1) shall be located in—

“(A) a State bordering Canada or Mexico;

or

“(B) a State or territory with a maritime border; and
“(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

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

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

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

“(4) any other appropriate activity, as determined by the Administrator, in consultation with the Commissioner of U.S. Customs and Border Protection.

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

“(e) REPORT.—For each of fiscal years 2024 through 2028, the Administrator shall submit to the Committee
on Homeland Security of the House of Representatives
and the Committee on Homeland Security and Govern-
mental Affairs of the Senate a report that contains infor-
mation on the expenditure of grants made under this sec-
tion by each grant recipient.

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

(b) CONFORMING AMENDMENT.—Subsection (a) of
U.S.C. 603) is amended to read as follows:

“(a) GRANTS AUTHORIZED.—The Secretary, through
the Administrator, may award grants under sections 2003,
2004, 2009, and 2009A to State, local, and Tribal govern-
ments, as appropriate.”.

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

“Sec. 2009A. Operation Stonegarden.”.

SEC. 1162. PROGRAM FOR SHELTER AND SERVICES.

Subtitle A of title XX of the Homeland Security Act
of 2002 (6 U.S.C. 601 et seq.) is amended by adding at
the end the following new section:
“SEC. 2010. SHELTER AND SERVICES PROGRAM.

“(a) Establishment.—There is established in the Department a program to be known as the ‘Shelter and Services Program’, under which the Secretary, acting through the Administrator of General Services, shall make grants available to non-Federal entities to support sheltering and relieving overcrowding in short-term holding facilities of U.S. Customs and Border Protection.

“(b) Eligible Recipients.—To be eligible to receive a grant under this section, a non-Federal entity or local municipality shall—

“(1) be located in—

“(A) a State bordering Canada or Mexico;

or

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

“(2) be involved in assisting individuals and families, and providing services to individuals apprehended by the Department of Homeland Security.

“(c) Permitted Uses.—The recipient of a grant under this section may use such a grant for—

“(1) supporting U.S. Customs and Border Protection in effectively managing migrant processing and preventing the overcrowding of short-term holding facilities of the agency;
“(2) sheltering individuals and families, and
other related services;
“(3) facility improvements and construction; or
“(4) any other appropriate activity, as deter-
mained by the Administrator of General Services, in
consultation with the Commissioner of U.S. Customs
and Border Protection or the Administrator of the
Federal Emergency Management Agency.
“(d) AUTHORIZATION OF APPROPRIATIONS.—There
are authorized to be appropriated such sums as may be
necessary for each of the fiscal years 2024 through 2028
for grants under this section.”.

Subtitle D—Border Security
Certification

SEC. 1181. BORDER SECURITY CERTIFICATION.

(a) GAO REPORT.—Not later than 2 years after the
date of enactment of this Act, and annually thereafter
until such time as the Comptroller General of the United
States makes the certification described in subsection (b),
the Comptroller General shall submit to the Committee
on Homeland Security of the House of Representatives
and the Committee on Homeland Security and Govern-
ment Affairs of the Senate a report detailing the progress
in implementing this title and title II containing—
(1) recommendations on how best to continue implementing this title and title II; and

(2) the rate of detections and apprehensions of individuals attempting to cross the southern border of the United States unlawfully.

(b) GAO Certification of Border Security.—

The Secretary of Homeland Security may not adjust the status of an individual under section 24103 until the date that the Comptroller General of the United States certifies that the Border Patrol has achieved a 90 percent or higher detection and apprehension rate of individuals attempting to cross the southern border of the United States unlawfully during the previous 12–month period.

TITLE II—BORDER SECURITY AND PORTS OF ENTRY INFRASTRUCTURE FUNDING

Subtitle A—Emergency Port of Entry Personnel and Infrastructure Funding

SEC. 1201. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

(1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of title 40, United States Code, construct new ports of entry
along the northern border and southern border at loc-
ations determined by the Secretary.

(2) Consultation.—

(A) Requirement to consult.—The Secretary and the Administrator of General Services shall consult with the Secretary of State, the Secretary of the Interior, the Sec-
retary of Agriculture, the Secretary of Trans-
portation, and appropriate representatives of State and local governments, and Indian tribes, and property owners in the United States prior to determining a location for any new port of entry constructed pursuant to paragraph (1).

(B) Considerations.—The purpose of the consultations required by subparagraph (A) shall be to minimize any negative impacts of constructing a new port of entry on the environ-
ment, culture, commerce, and quality of life of the communities and residents located near such new port.

(b) Expansion and Modernization of High-Pri-
ority Southern Border Ports of Entry.—Not later than 5 years after the date of enactment of this Act, the Administrator of General Services, subject to section 3307 of title 40, United States Code, and in coordination with
the Secretary, shall expand or modernize high-priority
ports of entry on the southern border, as determined by
the Secretary, for the purposes of reducing wait times and
enhancing security.

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

(d) NOTIFICATIONS.—

(1) RELATING TO NEW PORTS OF ENTRY.—Not
later than 15 days after determining the location of
any new port of entry for construction pursuant to
subsection (a), the Secretary and the Administrator
of General Services shall jointly notify the Members
of Congress who represent the State or congressional
district in which such new port of entry will be lo-
cated, as well as the Committee on Homeland Secu-
rity and Governmental Affairs, the Committee on
Finance, the Committee on Commerce, Science, and
Transportation, and the Committee on the Judiciary
of the Senate, and the Committee on Homeland Se-
curity, the Committee on Ways and Means, the
Committee on Transportation and Infrastructure,
and the Committee on the Judiciary of the House of
Representatives. Such notification shall include information relating to the location of such new port of entry, a description of the need for such new port of entry and associated anticipated benefits, a description of the consultations undertaken by the Secretary and the Administrator pursuant to paragraph (2) of such subsection, any actions that will be taken to minimize negative impacts of such new port of entry, and the anticipated timeline for construction and completion of such new port of entry.

(2) RELATING TO EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after enactment of this Act, the Secretary and the Administrator of General Services shall jointly notify the Committee on Homeland Security and Governmental Affairs, the Committee on Finance, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways and Means, the Committee on Transportation and Infrastructure, and the Committee on the Judiciary of the House of Representatives of the ports of entry on the southern border that are the subject of expansion or modernization pursuant to subsection (b) and the Sec-
retary’s and Administrator’s plan for expanding or
modernizing each such port of entry.

(c) SAVINGS PROVISION.—Nothing in this section
may be construed to—

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

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

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

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

SEC. 1202. SENSE OF CONGRESS ON COOPERATION BE-
TWEEN AGENCIES.

(a) FINDING.—Congress finds that personnel con-
straints exist at land ports of entry with regard to sanitary
and phytosanitary inspections for exported goods.

(b) SENSE OF CONGRESS.—It is the sense of Con-
gress that, in the best interest of cross-border trade and
the agricultural community—
(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate and expedite the flow of legitimate trade and commerce of perishable goods in a manner consistent with rules of the Department of Agriculture; and

(2) cross designation should be available for personnel who will assist more than one agency or department of the United States at land ports of entry to facilitate and expedite the flow of increased legitimate trade and commerce.

SEC. 1203. AUTHORIZATION OF APPROPRIATIONS.

In addition to any amounts otherwise authorized to be appropriated for such purpose, there is appropriated $2,000,000,000 for each of fiscal years 2024 through 2028 to carry out this subtitle.

Subtitle B—Border Security Funding

SEC. 1211. BORDER SECURITY FUNDING.

(a) FUNDING.—In addition to amounts otherwise made available by this Act or any other provision of law,
there is hereby appropriated to the “U.S. Customs and Border Protection—Procurement, Construction, and Improvements” account, out of any amounts in the Treasury not otherwise appropriated, $25,000,000,000, to be available for—

(1) a full border infrastructure system, including enhanced physical barriers and associated detection technology, roads, and lighting; and

(2) infrastructure, assets, operations, and the most up-to-date technology to enhance border security along the United States, including—

(A) border security technology, including surveillance technology, at and between ports of entry;

(B) new roads and improvements to existing roads;

(C) U.S. Border Patrol facilities and ports of entry;

(D) aircraft, aircraft-based sensors and associated technology, vessels, spare parts, and equipment to maintain such assets; and

(E) a biometric entry and exit system.

(b) **Availability of Border Barrier System Funds.**—
(1) IN GENERAL.—Of the amount appropriated in subsection (a)(1)—

(A) $3,041,000,000 shall become available October 1, 2023;

(B) $2,608,000,000 shall become available October 1, 2024;

(C) $1,715,000,000 shall become available October 1, 2025;

(D) $2,140,000,000 shall become available October 1, 2026;

(E) $1,735,000,000 shall become available October 1, 2027;

(F) $1,746,000,000 shall become available October 1, 2028;

(G) $1,776,000,000 shall become available October 1, 2029;

(H) $1,746,000,000 shall become available October 1, 2030; and

(I) $1,718,000,000 shall become available October 1, 2031.

(c) AVAILABILITY OF BORDER SECURITY INVESTMENT FUNDS.—

(1) IN GENERAL.—Of the amount appropriated in subsection (a)(2)—
(A) $500,000,000 shall become available October 1, 2023;

(B) $1,850,000,000 shall become available October 1, 2024;

(C) $1,950,000,000 shall become available October 1, 2025;

(D) $1,925,000,000 shall become available October 1, 2026; and

(E) $550,000,000 shall become available October 1, 2027.

(d) Multi-Year Spending Plan.—The Secretary of Homeland Security shall include in the budget justification materials submitted in support of the President’s annual budget request for fiscal year 2025 (as submitted under section 1105(a) of title 31, United States Code) a multi-year spending plan for the amounts made available under subsection (a).

(e) Quarterly Briefing Requirement.—Beginning not later than 180 days after the date of the enactment of this Act, and quarterly thereafter, the Commissioner of U.S. Customs and Border Protection shall brief the Committees on Appropriations of the Senate and the House of Representatives regarding activities under and progress made in carrying out this section.
SEC. 1212. EXCLUSION FROM PAYGO SCORECARDS.

The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

SEC. 1213. FUNDING MATTERS.

(a) IMMIGRATION INFRASTRUCTURE FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 9512. IMMIGRATION INFRASTRUCTURE FUND.

“(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the Immigration Infrastructure Fund, consisting of such amounts as may be appropriated or credited to such Fund as provided in this section or section 9602(b).

“(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Immigration Infrastructure Fund amounts equivalent to the taxes received in the Treasury under section 24004 of division B of the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act paid or incurred by taxpayers who are aliens and participants in the Dignity Program under title IV of division B of the Dignity for Immigrants
while Guarding our Nation to Ignite and Deliver the American Dream Act.

“(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Immigration Infrastructure Fund shall be available to carry out the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act and the amendments made by such Act.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

“Sec. 9512. Immigration Infrastructure Fund.”.

(3) EFFECTIVE DATE.—The amendments made by this Act shall apply to amounts received after the date of the enactment of this Act.

TITLE III—VISA SECURITY AND INTEGRITY

SEC. 1301. VISA SECURITY.

(a) VISA SECURITY UNITS AT HIGH-RISK POSTS.—Paragraph (1) of section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended—

(1) by striking “The Secretary” and inserting the following:

“(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph (B), the Secretary”; and
(2) by adding at the end the following new sub-
paragraph:

“(B) RISK-BASED ASSIGNMENTS.—

“(i) IN GENERAL.—In carrying out

subparagraph (A), the Secretary shall as-

sign employees of the Department to not

fewer than 75 diplomatic and consular

posts at which visas are issued. Such as-

signments shall be made—

“(I) in a risk-based manner;

“(II) considering the criteria de-

scribed in clause (iii); and

“(III) in accordance with Na-

tional Security Decision Directive 38

of June 2, 1982, or any superseding

presidential directive concerning staff-

ing at diplomatic and consular posts.

“(ii) PRIORITY CONSIDERATION.—In
carrying out National Security Decision

Directive 38 of June 2, 1982, the Sec-

retary of State shall ensure priority consid-

eration of any staffing assignment pursu-

ant to this subparagraph.
“(iii) CRITERIA DESCRIBED.—The criteria referred to in clause (i) are the following:

“(I) The number of nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located who were identified in United States Government databases related to the identities of known or suspected terrorists during the previous year.

“(II) Information on the cooperation of such country with the counter-terrorism efforts of the United States.

“(III) Information analyzing the presence, activity, or movement of terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) within or through such country.

“(IV) The number of formal objections based on derogatory information issued by the Visa Security Advisory Opinion Unit pursuant to para-
graph (10) regarding nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located.

“(V) The adequacy of the border and immigration control of such country.

“(VI) Any other criteria the Secretary determines appropriate.”.

(b) COUNTERTERROR VETTING AND SCREENING.—Paragraph (2) of section 428(e) of the Homeland Security Act of 2002 is amended—

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

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) Screen any such applications against the appropriate criminal, national security, and terrorism databases maintained by the Federal Government.”.

(c) TRAINING AND HIRING.—Subparagraph (A) of section 428(e)(6) of the Homeland Security Act of 2002 is amended by—

(1) striking “The Secretary shall ensure, to the extent possible, that any employees” and inserting
“The Secretary, acting through the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide training to any employees”; and

(2) striking “shall be provided the necessary training”.

(d) **Pre-Adjudicated Visa Security Assistance and Visa Security Advisory Opinion Unit.**—Subsection (e) of section 428 of the Homeland Security Act of 2002 is amended by adding at the end the following new paragraphs:

“(9) **Remote Pre-Adjudicated Visa Security Assistance.**—At the visa-issuing posts at which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, assign employees of the Department to remotely perform the functions required under paragraph (2) at not fewer than 50 of such posts.

“(10) **Visa Security Advisory Opinion Unit.**—The Secretary shall establish within U.S. Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond to requests from the Secretary of State to conduct a visa security review using information maintained by the De-
partment on visa applicants, including terrorism association, criminal history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

(e) DEADLINES.—The requirements established under paragraphs (1) and (9) of section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this section, shall be implemented not later than three years after the date of the enactment of this Act.

(f) FUNDING.—

(1) ADDITIONAL VISA FEE.—

(A) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, may charge a fee in support of visa security, to be deposited in the Fraud Detection and Nationality Security Directorate account. Fees imposed pursuant to this subsection shall be available only to the extent provided in advance by appropriations Acts.

(B) AMOUNT OF FEE.—The total amount of the additional fee charged pursuant to this subsection shall be equal to an amount sufficient to cover the annual costs of the visa security program established by the Secretary of

(2) Use of Fees.—Amounts deposited in the Fraud Detection and Nationality Security Directorate account pursuant to paragraph (1) are authorized to be appropriated to the Secretary of Homeland Security for the funding of the visa security program referred to in such paragraph.

SEC. 1302. ELECTRONIC PASSPORT SCREENING AND BIO-METRIC MATCHING.

(a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by this division, is further amended by adding at the end the following new sections:

"SEC. 420A. ELECTRONIC PASSPORT SCREENING AND BIO-METRIC MATCHING.

"(a) In General.—Not later than one year after the date of the enactment of this section, the Commissioner of U.S. Customs and Border Protection shall—

"(1) screen electronic passports at airports of entry by reading each such passport’s embedded chip; and

"(2) to the greatest extent practicable, utilize facial recognition technology or other biometric tech-
nology, as determined by the Commissioner, to in-
spect travelers at United States airports of entry.

“(b) APPLICABILITY.—

“(1) ELECTRONIC PASSPORT SCREENING.—
Paragraph (1) of subsection (a) shall apply to pass-
ports belonging to individuals who are United States
citizens, individuals who are nationals of a program
country pursuant to section 217 of the Immigration
and Nationality Act (8 U.S.C. 1187), and individ-
uals who are nationals of any other foreign country
that issues electronic passports.

“(2) FACIAL RECOGNITION MATCHING.—Para-
graph (2) of subsection (a) shall apply, at a min-
imum, to individuals who are nationals of a program
country pursuant to section 217 of the Immigration
and Nationality Act.

“(c) ANNUAL REPORT.—The Commissioner of U.S.
Customs and Border Protection, in collaboration with the
Chief Privacy Officer of the Department, shall issue to the
Committee on Homeland Security of the House of Rep-
resentatives and the Committee on Homeland Security
and Governmental Affairs of the Senate an annual report
through fiscal year 2028 on the utilization of facial rec-
ognition technology and other biometric technology pursu-
ant to subsection (a)(2). Each such report shall include
information on the type of technology used at each airport of entry, the number of individuals who were subject to inspection using either of such technologies at each airport of entry, and within the group of individuals subject to such inspection at each airport, the number of those individuals who were United States citizens and legal permanent residents. Each such report shall provide information on the disposition of data collected during the year covered by such report, together with information on protocols for the management of collected biometric data, including timeframes and criteria for storing, erasing, destroying, or otherwise removing such data from databases utilized by the Department.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 420 the following new item:

“Sec. 420A. Electronic passport screening and biometric matching.”.

SEC. 1303. REPORTING OF VISA OVERSTAYS.

Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

(1) in subsection (a)—

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

(B) by inserting before the period at the end the following: “, and any additional infor-
mation that the Secretary determines necessary for purposes of the report under subsection (b)”; and
(2) by amending subsection (b) to read as follows:
“(b) ANNUAL REPORT.—Not later than September 30, 2025, and not later than September 30 of each year thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report providing, for the preceding fiscal year, numerical estimates (including information on the methodology utilized to develop such numerical estimates) of—
“(1) for each country, the number of aliens from the country who are described in subsection (a), including—
“(A) the total number of such aliens within all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and
“(B) the number of such aliens within each of the classes of nonimmigrant aliens, as well as the number of such aliens within each of the
subclasses of such classes of nonimmigrant aliens, as applicable;

“(2) for each country, the percentage of the total number of aliens from the country who were present in the United States and were admitted to the United States as nonimmigrants who are described in subsection (a);

“(3) the number of aliens described in subsection (a) who arrived by land at a port of entry into the United States;

“(4) the number of aliens described in subsection (a) who entered the United States using a border crossing identification card (as such term is defined in section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6))); and

“(5) the number of Canadian nationals who entered the United States without a visa whose authorized period of stay in the United States terminated during the previous fiscal year, but who remained in the United States.”.

SEC. 1304. STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM VERIFICATION.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall ensure that the information collected under the program
established under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is available to officers of U.S. Customs and Border Protection for the purpose of conducting primary inspections of aliens seeking admission to the United States at each port of entry of the United States.

SEC. 1305. VISA INFORMATION SHARING.

(a) In General.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

(1) by striking “issuance or refusal” and inserting “issuance, refusal, or revocation”;

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “and on the basis of reciprocity” and all that follows and inserting the following “may provide to a foreign government in-
formation in a Department of State computerized visa database and, when necessary and appropriate, other records covered by this section related to infor-
mation in such database—”;

(3) in paragraph (2)(A)—

(A) by inserting at the beginning “on the basis of reciprocity,”;

(B) by inserting “(i)” after “for the pur-
pose of”; and
(C) by striking “illicit weapons; or” and inserting “illicit weapons, or (ii) determining a person’s deportability or eligibility for a visa, admission, or other immigration benefit;”;

(4) in paragraph (2)(B)—

(A) by inserting at the beginning “on the basis of reciprocity,”;

(B) by striking “in the database” and inserting “such database”;

(C) by striking “for the purposes” and inserting “for one of the purposes”; and

(D) by striking “or to deny visas to persons who would be inadmissible to the United States.” and inserting “; or”; and

(5) in paragraph (2), by adding at the end the following:

“(C) with regard to any or all aliens in the database specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government and such information is provided in accordance with the confidentiality requirements under section 208.”.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date of the enactment of this Act.

SEC. 1306. FRAUD PREVENTION.

(a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

(1) PLAN FOR IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a plan for the use of advanced analytics software to ensure the proactive detection of fraud in immigration benefits applications and petitions and to ensure that any such applicant or petitioner does not pose a threat to national security.

(2) IMPLEMENTATION OF PLAN.—Not later than 1 year after the date of the submission of the plan under paragraph (1), the Secretary of Homeland Security shall begin implementation of the plan.

(b) BENEFITS FRAUD ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security, acting through the Fraud Detection and Nationality Security Directorate, shall complete a
benefit fraud assessment by fiscal year 2025 on each of the following:

(A) Petitions by VAWA self-petitioners (as such term is defined in section 101(a)(51) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(51))).

(B) Applications or petitions for visas or status under section 101(a)(15)(K) of such Act or under section 201(b)(2) of such Act, in the case of spouses (8 U.S.C. 1101(a)(15)(K)).

(C) Applications for visas or status under section 101(a)(27)(J) of such Act (8 U.S.C. 1101(a)(27)(J)).

(D) Applications for visas or status under section 101(a)(15)(U) of such Act (8 U.S.C. 1101(a)(15)(U)).

(E) Petitions for visas or status under section 101(a)(27)(C) of such Act (8 U.S.C. 1101(a)(27)(C)).

(F) Applications for asylum under section 208 of such Act (8 U.S.C. 1158).

(G) Applications for adjustment of status under section 209 of such Act (8 U.S.C. 1159).

(H) Petitions for visas or status under section 201(b) of such Act (8 U.S.C. 1151(b)).
(2) Reporting on findings.—Not later than 30 days after the completion of each benefit fraud assessment under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such assessment and recommendations on how to reduce the occurrence of instances of fraud identified by the assessment.

SEC. 1307. VISA INELIGIBILITY FOR SPOUSES AND CHILDREN OF DRUG TRAFFICKERS.

Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

(1) in subparagraph (C)(ii), by striking “is the spouse, son, or daughter” and inserting “is or has been the spouse, son, or daughter”; and

(2) in subparagraph (H)(ii), by striking “is the spouse, son, or daughter” and inserting “is or has been the spouse, son, or daughter”.

SEC. 1308. DNA TESTING.

Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by inserting “Where considered necessary, by the consular officer or immigration official, to establish family relationships, the immigrant shall provide DNA evidence of such a relationship in accordance with procedures established for submitting
such evidence. The Secretary and the Secretary of State may, in consultation, issue regulations to require DNA evidence to establish family relationship, from applicants for certain visa classifications.” after “and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer.”.

SEC. 1309. DNA COLLECTION CONSISTENT WITH FEDERAL LAW.

Not later than 90 days after the date of the enactment of this section, the Secretary shall ensure and certify to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP is fully compliant with the DNA Fingerprint Act of 2005 (Public Law 109–162; 119 Stat. 3084) at all border facilities that process adults, including as part of a family unit, in the custody of CBP at the border.

TITLE IV—TRANSNATIONAL CRIMINAL ORGANIZATION PREVENTION AND ELIMINATION

SEC. 1401. SHORT TITLE.

This title may be cited as the “Transnational Criminal Organization Prevention and Elimination Act”.

1 such evidence. The Secretary and the Secretary of State may, in consultation, issue regulations to require DNA evidence to establish family relationship, from applicants for certain visa classifications.” after “and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer.”.

SEC. 1309. DNA COLLECTION CONSISTENT WITH FEDERAL LAW.

Not later than 90 days after the date of the enactment of this section, the Secretary shall ensure and certify to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP is fully compliant with the DNA Fingerprint Act of 2005 (Public Law 109–162; 119 Stat. 3084) at all border facilities that process adults, including as part of a family unit, in the custody of CBP at the border.

TITLE IV—TRANSNATIONAL CRIMINAL ORGANIZATION PREVENTION AND ELIMINATION

SEC. 1401. SHORT TITLE.

This title may be cited as the “Transnational Criminal Organization Prevention and Elimination Act”. 
1 SEC. 1402. ILLICIT SPOTTING.

2 Section 1510 of title 18, United States Code, is
3 amended by adding at the end the following:
4 “(f) Any person who knowingly transmits, by any
5 means, to another person the location, movement, or ac-
6 tivities of any officer or agent of a Federal, State, local,
7 or tribal law enforcement agency with the intent to further
8 a criminal offense under the immigration laws (as such
9 term is defined in section 101 of the Immigration and Na-
10 tionality Act), the Controlled Substances Act, or the Con-
11 trolled Substances Import and Export Act, or that relates
12 to agriculture or monetary instruments shall be fined
13 under this title or imprisoned not more than 10 years, or
14 both.”.

15 SEC. 1403. UNLAWFULLY HINDERING IMMIGRATION, BOR-
16 DER, AND CUSTOMS CONTROLS.

17 (a) BRINGING IN AND HARBOURING OF CERTAIN
18 ALIENS.—Section 274(a) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1324(a)) is amended—
20 (1) in paragraph (2), by striking “brings to or
21 attempts to” and inserting the following: “brings to
22 or knowingly attempts or conspires to”; and
23 (2) by adding at the end the following:
24 “(5) In the case of a person who has brought
25 aliens into the United States in violation of this sub-
26 section, the sentence otherwise provided for may be
increased by up to 10 years if that person, at the
time of the offense, used or carried a firearm or
who, in furtherance of any such crime, possessed a
firearm.”.

(b) AIDING OR ASSISTING CERTAIN ALIENS TO
ENTER THE UNITED STATES.—Section 277 of the Immi-
gration and Nationality Act (8 U.S.C. 1327) is amend-
ed—

(1) by inserting after “knowingly aids or as-
sists” the following: “or attempts to aid or assist”;
and

(2) by adding at the end the following: “In the
case of a person convicted of an offense under this
section, the sentence otherwise provided for may be
increased by up to 10 years if that person, at the
time of the offense, used or carried a firearm or
who, in furtherance of any such crime, possessed a
firearm.”.

SEC. 1404. REPORT ON SMUGGLING.

The Secretary of Homeland Security, in coordination
with the heads of appropriate Federal agencies, shall de-
velop a regularly updated intelligence driven analysis that
includes—
(1) migrant perceptions of United States law and policy at the border, including human smuggling organization messaging and propaganda;

(2) tactics, techniques, and procedures used by human smuggling organizations to exploit border security vulnerabilities to facilitate such smuggling activities across the border;

(3) the methods and use of technology to organize and encourage irregular migration and undermine border security; and

(4) any other information the Secretary determines appropriate.

SEC. 1405. SARAH’S LAW.

(a) MANDATORY DETENTION OF CERTAIN ALIENS CHARGED WITH A CRIME RESULTING IN DEATH OR SERIOUS BODILY INJURY.—Section 236(c) of the Immigration and Nationality Act (8 U.S.C. 1226(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraphs (A) and (B), by striking the comma at the end of each subparagraph and inserting a semicolon;

(B) in subparagraph (C)—

(i) by striking “sentence” and inserting “sentenced”; and
(ii) by striking “, or” and inserting a semicolon;

(C) in subparagraph (D), by striking the comma at the end and inserting “; or”; and

(D) by inserting after subparagraph (D) the following:

“(E)(i)(I) was not inspected and admitted into the United States;

“(II) held a nonimmigrant visa (or other documentation authorizing admission into the United States as a nonimmigrant) that has been revoked under section 221(i); or

“(III) is described in section 237(a)(1)(C)(i); and

“(ii) has been charged by a prosecuting authority in the United States with any crime that resulted in the death or serious bodily injury (as defined in section 1365(h)(3) of title 18, United States Code) of another person,”;

and

(2) by adding at the end the following:

“(3) NOTIFICATION REQUIREMENT.—Upon encountering or gaining knowledge of an alien described in paragraph (1), the Assistant Secretary of
Homeland Security for Immigration and Customs Enforcement shall make reasonable efforts—

“(A) to obtain information from law enforcement agencies and from other available sources regarding the identity of any victims of the crimes for which such alien was charged or convicted; and

“(B) to provide the victim or, if the victim is deceased, a parent, guardian, spouse, or closest living relative of such victim, with information, on a timely and ongoing basis, including—

“(i) the alien’s full name, aliases, date of birth, and country of nationality;

“(ii) the alien’s immigration status and criminal history;

“(iii) the alien’s custody status and any changes related to the alien’s custody; and

“(iv) a description of any efforts by the United States Government to remove the alien from the United States.”.

(b) SAVINGS PROVISION.—Nothing in this section, or the amendments made by this section, may be construed to limit the rights of crime victims under any other provi-
1 section of law, including section 3771 of title 18, United
2 States Code.

3 **SEC. 1406. ILLEGAL REENTRY.**

4 Section 276 of the Immigration and Nationality Act
5 (8 U.S.C. 1326) is amended to read as follows:

6 **“SEC. 276. REENTRY OF REMOVED ALIEN.”**

7 **“(a) REENTRY AFTER REMOVAL.—”**

8 **“(1) IN GENERAL.—**Any alien who has been de-
9 nied admission, excluded, deported, or removed, or
10 who has departed the United States while an order
11 of exclusion, deportation, or removal is outstanding,
12 and subsequently enters, attempts to enter, crosses
13 the border to, attempts to cross the border to, or is
14 at any time found in the United States, shall be
15 fined under title 18, United States Code, imprisoned
16 not more than 10 years, or both.

17 **“(2) EXCEPTION.—**If an alien sought and re-
18 ceived the express consent of the Secretary to re-
19 apply for admission into the United States, or, with
20 respect to an alien previously denied admission and
21 removed, the alien was not required to obtain such
22 advance consent under the Immigration and Nation-
23 ality Act or any prior Act, the alien shall not be sub-
24 ject to the fine and imprisonment provided for in
25 paragraph (1).
“(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure—

“(1) for 3 or more misdemeanors or for a felony, the alien shall be fined under title 18, United States Code, imprisoned not more than 15 years, or both;

“(2) for a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

“(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 25 years, or both; or

“(4) for murder, rape, kidnapping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, or for 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not more than 30 years, or both.

“(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, at-
tempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 20 years, or both.

“(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(1) alleged in the indictment or information;

and

“(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(e) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens
as may be available under this section or any other provi-

sion of law.

“(f) DEFINITIONS.—For purposes of this section and
section 275, the following definitions shall apply:

“(1) CROSSES THE BORDER TO THE UNITED
STATES.—The term ‘crosses the border’ refers to the
physical act of crossing the border free from official
restraint.

“(2) OFFICIAL RESTRAINT.—The term ‘official
restraint’ means any restraint known to the alien
that serves to deprive the alien of liberty and pre-
vents the alien from going at large into the United
States. Surveillance unbeknownst to the alien shall
not constitute official restraint.

“(3) FELONY.—The term ‘felony’ means any
criminal offense punishable by a term of imprison-
ment of more than 1 year under the laws of the
United States, any State, or a foreign government.

“(4) MISDEMEANOR.—The term ‘misdemeanor’
means any criminal offense punishable by a term of
imprisonment of not more than 1 year under the ap-
plicable laws of the United States, any State, or a
foreign government.

“(5) REMOVAL.—The term ‘removal’ includes
any denial of admission, exclusion, deportation, or
removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

“(6) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

SEC. 1407. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

(a) DEFINITION OF GANG MEMBER.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

“(53)(A) The term ‘criminal gang’ means an association of 25 or more individuals—

“(i) whose members knowingly, willingly, and collectively identify themselves by adopting a group identity, which they use to create an atmosphere of fear or intimidation, frequently by employing one or more of the following: a common name, slogan, identifying sign, symbol, tattoo or other physical marking, style or color of clothing, hairstyle, hand sign or graffiti;

“(ii) whose purpose in part is to engage in criminal activity and which uses violence or intimidation to further its criminal objectives; and
“(iii) whose members engage in criminal activity or acts of juvenile delinquency that if committed by an adult would be crimes with the intent to enhance or preserve the association’s power, reputation or economic resources.

“(B) The association may also possess some of the following characteristics:

“(i) The members may employ rules for joining and operating within the association.

“(ii) The members may meet on a recurring basis.

“(iii) The association may provide physical protection of its members from others.

“(iv) The association may seek to exercise control over a particular geographic location or region, or it may simply defend its perceived interests against rivals.

“(v) The association may have an identifiable structure.

“(C) The offenses described, whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, are the following:
“(i) A ‘felony drug offense’ (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

“(ii) A felony offense involving firearms or explosives or in violation of section 931 of title 18, United States Code (relating to purchase, ownership, or possession of body armor by violent felons).

“(iii) An offense under section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose), except that this clause does not apply in the case of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code.

“(iv) A violent crime described in section 101(a)(43)(F).

“(v) A crime involving obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or perjury or subornation of perjury.

“(vi) Any conduct punishable under sections 1028A and 1029 of title 18, United States Code (re-
lating to aggravated identity theft or fraud and re-
related activity in connection with identification docu-
ments or access devices), sections 1581 through
1594 of such title (relating to peonage, slavery, and
trafficking in persons), section 1951 of such title
(relating to interference with commerce by threats or
violence), section 1952 of such title (relating to
interstate and foreign travel or transportation in aid
of racketeering enterprises), section 1956 of such
title (relating to the laundering of monetary instru-
ments), section 1957 of such title (relating to engag-
ing in monetary transactions in property derived
from specified unlawful activity), or sections 2312
through 2315 of such title (relating to interstate
transportation of stolen motor vehicles or stolen
property).

“(vii) An attempt or conspiracy to commit an
offense described in this paragraph or aiding, abet-
ting, counseling, procuring, commanding, inducing,
facilitating, or soliciting the commission of an of-
fense described in clauses (i) through (vi).”.

(b) INADMISSIBILITY.—Section 212(a)(2) of such Act
(8 U.S.C. 1182(a)(2)) is amended—

(1) in subparagraph (A)(i)—
(A) in subclause (I), by striking “or” at the end; and

(B) by inserting after subclause (II) the following:

“(III) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to participation or membership in a criminal gang, or

“(IV) any felony or misdemeanor offense for which the alien received a sentencing enhancement predicated on knowing gang membership or conduct that promoted, furthered, aided, or supported the illegal activity of the criminal gang, except in the case of any such alien who was a minor under the age of 16 at the time of the offense, who was forced, threatened, or coerced into association with the criminal gang, who was unknowingly associated with the gang, or who acted under duress.”; and

(2) by adding at the end the following:
“(N) ALIENS ASSOCIATED WITH CRIMINAL
GANGS.—

“(i) ALIENS NOT PHYSICALLY
PRESENT IN THE UNITED STATES.—In the
case of an alien who is not physically
present in the United States:

“(I) That alien is inadmissible if
a consular officer, the Secretary of
Homeland Security, or the Attorney
General knows or has reasonable
grounds to believe—

“(aa) to be or to have been
a member of a criminal gang (as
defined in section 101(a)(53)); or

“(bb) to have participated in
the activities of a criminal gang
(as defined in section
101(a)(53)), knowing or having
reason to know that such activi-
ties will promote, further, aid, or
support the illegal activity of the
criminal gang.

“(II) That alien is inadmissible if
a consular officer, the Secretary of
Homeland Security, or the Attorney
General has reasonable grounds to believe the alien has participated in, been a member of, promoted, or conspired with a criminal gang, either inside or outside of the United States.

“(III) That alien is inadmissible if a consular officer, an immigration officer, the Secretary of Homeland Security, or the Attorney General has reasonable grounds to believe seeks to enter the United States or has entered the United States in furtherance of the activities of a criminal gang, either inside or outside of the United States.

“(ii) Aliens physically present in the United States.—In the case of an alien who is physically present in the United States, that alien is inadmissible if the alien—

“(I) is a member of a criminal gang (as defined in section 101(a)(53)); or

“(II) has participated in the activities of a criminal gang (as defined in section 101(a)(53)), knowing or having reason to know that such activities will promote, fur-
ther, aid, or support the illegal activity of
the criminal gang.

“(iii) EXCEPTIONS.—Clauses (i) and (ii)
do not apply to a spouse or child of an alien—

“(I) who did not know or should not
reasonably have known of the activity
causing the alien to be found inadmissible
under this section;

“(II) whom the consular officer or At-
torney General has reasonable grounds to
believe has renounced the activity causing
the alien to be found inadmissible under
this section; or

“(III) whom the consular officer or
Attorney General has reasonable grounds
to believe did not willingly participate in
the activity of the associated gang, was
under the direct control of a member, or
did so under duress.”.

(e) DEPORTABILITY.—Section 237(a)(2) of the Im-
migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
amended by adding at the end the following:

“(H) ALIENS ASSOCIATED WITH CRIMINAL
Gangs.—
“(i) IN GENERAL.—Any alien is deportable who—

“(I) is or has been a member of a criminal gang (as defined in section 101(a)(53));

“(II) has participated in the activities of a criminal gang (as so defined), knowing or having reason to know that such activities will promote, further, aid, or support the illegal activity of the criminal gang;

“(III) has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to participation or membership in a criminal gang; or

“(IV) any felony or misdemeanor offense for which the alien received a sentencing enhancement predicated on gang membership or conduct that promoted, furthered, aided, or supported the illegal activity of the criminal gang.
(ii) EXCEPTION.—Clause (i) does not apply to a spouse or child of an alien—

“(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this section;

“(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this section; or

“(III) whom the consular officer or Attorney General has reasonable grounds to believe did not willingly participate in the activity of the associated gang, was under the direct control of a member, or did so under duress.”.

(d) DESIGNATION.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

“DESIGNATION OF CRIMINAL GANG

“SEC. 220.

“(a) DESIGNATION.—
“(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, may designate a group, club, organization, or association of 25 or more persons as a criminal gang if the Secretary finds that their conduct is described in section 101(a)(53).

“(2) PROCEDURE.—

“(A) NOTIFICATION.—60 days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, in writing, of the intent to designate a group, club, organization, or association of 25 or more persons under this subsection and the factual basis therefor.

“(B) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary shall publish the designation in the Federal Register seven days after providing the notification under subparagraph (A).

“(3) RECORD.—

“(A) IN GENERAL.—In making a designation under this subsection, the Secretary shall create an administrative record.
“(B) Classified Information.—The Secretary may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

“(4) Period of Designation.—

“(A) In General.—A designation under this subsection shall be effective for all purposes until revoked under paragraph (5) or (6) or set aside pursuant to subsection (c).

“(B) Review of Designation upon Petition.—

“(i) In General.—The Secretary shall review the designation of a criminal gang under the procedures set forth in clauses (iii) and (iv) if the designated group, club, organization, or association of 25 or more persons files a petition for revocation within the petition period described in clause (ii).

“(ii) Petition Period.—For purposes of clause (i)—
“(I) if the designated group, club, organization, or association of 25 or more persons has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

“(II) if the designated group, club, organization, or association of 25 or more persons has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

“(iii) PROCEDURES.—Any group, club, organization, or association of 25 or more persons that submits a petition for revocation under this subparagraph of its designation as a criminal gang must provide evidence in that petition that it is not described in section 101(a)(53).

“(iv) DETERMINATION.—

“(I) IN GENERAL.—Not later than 60 days after receiving a petition for revocation submitted under this subparagraph,
the Secretary shall make a determination
as to such revocation.

“(II) Classified information.—
The Secretary may consider classified in-
formation in making a determination in re-
response to a petition for revocation. Classi-
fied information shall not be subject to dis-
closure for such time as it remains classi-
fied, except that such information may be
disclosed to a court ex parte and in camera
for purposes of judicial review under sub-
section (c).

“(III) Publication of determination.—A determination made by the Sec-
retary under this clause shall be published
in the Federal Register.

“(IV) Procedures.—Any revocation
by the Secretary shall be made in accord-
ance with paragraph (6).

“(C) Other review of designation.—

“(i) In general.—If in a 5-year period no
review has taken place under subparagraph (B),
the Secretary shall review the designation of the
criminal gang in order to determine whether
such designation should be revoked pursuant to paragraph (6).

“(ii) Procedures.—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established by the Secretary. The results of such review and the applicable procedures shall not be reviewable in any court.

“(iii) Publication of results of review.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.

“(5) Revocation by Act of Congress.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

“(6) Revocation Based on Change in Circumstances.—

“(A) In general.—The Secretary may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4) if the Secretary finds that—
“(i) the group, club, organization, or association of 25 or more persons that has been designated as a criminal gang is no longer described in section 101(a)(53); or

“(ii) the national security or the law enforcement interests of the United States warrants a revocation.

“(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

“(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

“(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (2) an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection.

“(b) AMENDMENTS TO A DESIGNATION.—
“(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the group, club, organization, or association of 25 or more persons has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another group, club, organization, or association of 25 or more persons.

“(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Paragraphs (2), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

“(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

“(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex
parte and in camera for purposes of judicial review under subsection (e) of this section.

“(c) JUDICIAL REVIEW OF DESIGNATION.—

“(1) IN GENERAL.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated group, club, organization, or association of 25 or more persons may seek judicial review in the United States Court of Appeals for the District of Columbia Circuit.

“(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

“(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
“(B) contrary to constitutional right, power, privilege, or immunity;

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

“(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2); or

“(E) not in accord with the procedures required by law.

“(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation, amended designation, or determination in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order setting aside the designation, amended designation, or determination in response to a petition for revocation.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘classified information’ has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);
“(2) the term ‘national security’ means the national defense, foreign relations, or economic interests of the United States;

“(3) the term ‘relevant committees’ means the Committees on the Judiciary of the Senate and of the House of Representatives; and

“(4) the term ‘Secretary’ means the Secretary of Homeland Security, in consultation with the Attorney General.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

“Sec. 220. Designation of criminal gang.”.

(e) MANDATORY DETENTION OF CRIMINAL GANG MEMBERS.—

(1) IN GENERAL.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)), as amended by this division, is further amended—

(A) in subparagraph (E), by striking “or” at the end;

(B) in subparagraph (F), by inserting “or” at the end; and

(C) by inserting after subparagraph (F) the following:
“(G) is inadmissible under section 212(a)(2)(N) or deportable under section 237(a)(2)(H),”.

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

SEC. 1408. MANDATORY MINIMUM PENALTY FOR CHILD SEX TRAFFICKING.

Section 1591(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “15” and inserting “25”; and

(2) in paragraph (2), by striking “10 years” and inserting “25 years”.

SEC. 1409. DESIGNATION OF CERTAIN DRUG CARTELS AS SPECIAL TRANSNATIONAL CRIMINAL ORGANIZATION.

(a) DESIGNATION.—
(1) IN GENERAL.—The Secretary is authorized to designate an organization as a foreign Special Transnational Criminal Organization in accordance with this subsection if the Secretary finds that—

(A) the organization is a foreign organization;

(B) the organization is a self-perpetuating association of individuals who operate transnationally for the purpose of obtaining power, influence, monetary, or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption or violence or through a transnational organization structure and the exploitation of transnational commerce or communication mechanisms; and

(C) the organization threatens the security of United States nationals or the national security of the United States.

(2) PROCEDURE.—

(A) NOTICE.—

(i) TO CONGRESSIONAL LEADERS.—
Seven days before making a designation under this subsection, the Secretary shall, by classified communication, notify the
Speaker and minority leader of the House
of Representatives, the President pro tem-
pore, majority leader, and minority leader
of the Senate, and the members of the rel-
evant committees of the House of Rep-
resentatives and the Senate, in writing, of
the intent to designate an organization
under this subsection, together with the
findings made under paragraph (1) with
respect to that organization, and the fac-
tual basis therefor.

(ii) Publication in Federal Register.—The Secretary shall publish the
designation in the Federal Register seven
days after providing the notification under
clause (i).

(B) Effect of Designation.—An organ-
ization designated as a foreign Special
Transnational Criminal Organization shall un-
dergo a full review by the Department of Treas-
ury of authorities granted by the Foreign Nar-
cotics Kingpin Designation Act (21 U.S.C.
1901 et seq.).

(C) Freezing of Assets.—Upon notifica-
tion under paragraph (2)(A)(i), the Secretary of
the Treasury may require United States finan-
cial institutions possessing or controlling any
assets of any foreign organization included in
the notification to block all financial trans-
actions involving those assets until further di-
rective from either the Secretary of the Treas-
ury, Act of Congress, or order of court.

(3) RECORD.—

(A) IN GENERAL.—In making a designa-
tion under this subsection, the Secretary shall
create an administrative record.

(B) CLASSIFIED INFORMATION.—The Sec-
retary may consider classified information in
making a designation under this subsection.
Classified information shall not be subject to
disclosure for such time as it remains classified,
except that such information may be disclosed
to a court ex parte and in camera for purposes
of judicial review under subsection (c).

(4) PERIOD OF DESIGNATION.—

(A) IN GENERAL.—A designation under
this subsection shall be effective until revoked
under paragraph (5) or (6) or set aside pursu-
ant to subsection (c).
(B) Review of designation upon petition.—

(i) In general.—The Secretary shall review the designation of a foreign Special Transnational Criminal Organization under the procedures set forth in clauses (iii) and (iv) if the designated organization files a petition for revocation within the petition period described in clause (ii).

(ii) Petition period.—For purposes of clause (i)—

(I) if the designated organization has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

(II) if the designated organization has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.
(iii) PROCEDURES.—Any foreign Special Transnational Criminal Organization that submits a petition for revocation under this subparagraph must provide evidence in that petition that the relevant circumstances described in paragraph (1) are sufficiently different from the circumstances that were the basis for the designation such that a revocation with respect to the organization is warranted.

(iv) DETERMINATION.—

(I) IN GENERAL.—Not later than 180 days after receiving a petition for revocation submitted under this subparagraph, the Secretary shall make a determination as to such revocation.

(II) CLASSIFIED INFORMATION.—The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in
camera for purposes of judicial review under subsection (e).

(III) **Publication of Determination.**—A determination made by the Secretary under this clause shall be published in the Federal Register.

(IV) **Procedures.**—Any revocation by the Secretary shall be made in accordance with paragraph (6).

(C) **Other Review of Designation.**—

(i) **In General.**—If the Secretary determines that a 5-year period has elapsed since the designation without a review having taken place under subparagraph (B), the Secretary shall review the designation of the foreign Special Transnational Criminal Organization in order to determine whether such designation should be revoked pursuant to paragraph (6).

(ii) **Procedures.**—If a review does not take place pursuant to subparagraph (B) in response to a petition for revocation that is filed in accordance with that subparagraph, then the review shall be conducted pursuant to procedures established
by the Secretary. The results of such re-
view and the applicable procedures shall
not be reviewable in any court.

(iii) PUBLICATION OF RESULTS OF
review.—The Secretary shall publish any
determination made pursuant to this sub-
paragraph in the Federal Register.

(5) REVOCATION BY ACT OF CONGRESS.—The
Congress, by an Act of Congress, may block or re-
voke a designation made under paragraph (1).

(6) REVOCATION BASED ON CHANGE IN CIR-
CUMSTANCES.—

(A) IN GENERAL.—The Secretary may re-
voke a designation made under paragraph (1)
at any time, and shall revoke a designation
upon completion of a review conducted pursuant
to subparagraphs (B) and (C) of paragraph
(4) if the Secretary finds that—

(i) the circumstances that were the
basis for the designation have changed in
such a manner as to warrant revocation; or

(ii) the national security of the United
States warrants a revocation.

(B) PROCEDURE.—The procedural require-
ments of paragraphs (2) and (3) shall apply to
a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

(7) Effect of Revocation.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct occurring prior to the effective date of such revocation.

(8) Use of Designation in Trial or Hearing.—If a designation under this subsection has become effective under paragraph (2)(B) a defendant in a criminal action or an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection at any trial or hearing.

(b) Amendments to a Designation.—

(1) In General.—The Secretary may amend a designation under this subsection if the Secretary finds that the organization has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another organization.
(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Subparagraphs (B) and (C) of subsection (a)(2) shall apply to an amended designation upon such publication. Paragraphs (2)(A)(i), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

(c) JUDICIAL REVIEW OF DESIGNATION.—

(1) IN GENERAL.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated
organization may seek judicial review in the United States Court of Appeals for the District of Columbia Circuit.

(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation the court finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

(D) lacking substantial support in the administrative record taken as a whole or in clas-
sified information submitted to the court under paragraph (2); or

(E) not in accord with the procedures required by law.

(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation, amended designation, or determination in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order setting aside the designation, amended designation, or determination in response to a petition for revocation.

(d) DEFINITIONS.—As used in this section—

(1) the term “classified information” has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term “national security” means the national defense, foreign relations, or economic interests of the United States;

(3) the term “foreign organization” includes a group of persons or an organization whose leadership is primarily based in a country outside of the United States;

(4) the term “relevant committees” means the Committees on the Judiciary, Intelligence, and For-
eign Relations of the Senate and the Committees on
the Judiciary, Intelligence, and International Rela-
tions of the House of Representatives; and

(5) the term “Secretary” means the Secretary
of State, in consultation with the Secretary of the
Treasury and the Attorney General.

(e) DESIGNATION.—The Secretary shall designate
the following organizations, and any similarly situated
Mexican drug cartel the Secretary deems appropriate, as
Special Transnational Criminal Organizations:

(1) Sinaloa Cartel.

(2) Jalisco New Generation Cartel.

(3) Beltran-Leyva Organization.

(4) Cartel del Noreste and Los Zetas.

(5) Guerreros Unidos.

(6) Gulf Cartel.

(7) Juarez Cartel and La Linea.

(8) La Familia Michoacana.

(9) Los Rojos.

(10) Tijuana Cartel.

(11) Las Moicas.

(12) Los Caballeros Templarios.

TITLE V—MANDATORY E-VERIFY

SEC. 1501. SHORT TITLE.

This title may be cited as the “Legal Workforce Act”.
SEC. 1502. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

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

“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

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

“(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

“(i) ATTESTATION.—During the verification period (as defined in subparagraph (E)), the person or entity shall attest, under penalty of perjury and on a form, including electronic and telephonic formats, designated or established by the Secretary by regulation not later than 6 months after the date of the enactment of the Legal Workforce Act, that it has verified that the individual is not an unauthorized alien by—
“(I) obtaining from the individual the individual’s social security account number or United States passport number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(II) examining—

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

“(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).
“(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this subparagraph is an individual’s—

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

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

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

“(IV) in the case of a non-immigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien’s non-immigrant status as long as the period of status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;
“(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; or

“(VI) other document designated by the Secretary of Homeland Security, if the document—

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

“(bb) is evidence of authorization of employment in the United States; and
“(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

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

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

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

“(II) an individual’s unexpired U.S. military identification card;

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

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

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

“(vi) SIGNATURE.—Such attestation may be manifested by either a handwritten or electronic signature.

“(B) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—During the verification period (as defined in subparagraph
(E)), the individual shall attest, under penalty of perjury on the form designated or established for purposes of subparagraph (A), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary of Homeland Security to be hired, recruited, or referred for such employment. Such attestation may be manifested by either a handwritten or electronic signature. The individual shall also provide that individual’s social security account number or United States passport number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under this subparagraph, such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary may specify.

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

“(i) IN GENERAL.—After completion of such form in accordance with subpara-
graphs (A) and (B), the person or entity shall—

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

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

“(bb) in the case of the hiring of an individual, the later of 3 years after the date the verification is completed or one year after the date the individual’s employment is terminated; and
“(II) during the verification period (as defined in subparagraph (E)), make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of an individual.

“(ii) CONFIRMATION.—

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

“(II) TENTATIVE NONCONFIRMATION RECEIVED.—If the person or other entity receives a tentative non-confirmation of an individual’s identity or work eligibility under the
verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the nonconfirmation within the time period specified, the nonconfirmation shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a final nonconfirmation. If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under subsection (d). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a
nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure. In no case shall an employer rescind the offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a rescission of the offer of employment for any reason other than because of such a failure.

“(III) Final confirmation or nonconfirmation received.—If a final confirmation or nonconfirmation is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.
“(IV) Extension of Time.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

“(V) Consequences of Non-Confirmation.—

“(aa) Termination or Notification of Continued Employment.—If the person or other entity has received a final
nonconfirmation regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(bb) Failure to Notify.—If the person or entity fails to provide notice with respect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

“(VI) Continued Employment After Final Nonconfirmation.—If the person or other entity continues to
employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

“(D) Effective dates of new procedures.—

“(i) Hiring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity hiring an individual for employment in the United States as follows:

“(I) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, on the date that is 6 months after the date of the enactment of such Act.

“(II) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that
is 12 months after the date of the enactment of such Act.

“(III) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 18 months after the date of the enactment of such Act.

“(IV) With respect to employers having one or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 24 months after the date of the enactment of such Act.

“(ii) Recruiting and Referring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States on the date that is 12
months after the date of the enactment of
the Legal Workforce Act.

“(iii) AGRICULTURAL LABOR OR SERV-
ICES.—With respect to an employee per-
forming agricultural labor or services, this
paragraph shall not apply with respect to
the verification of the employee until the
date that is 30 months after the date of
the enactment of the Legal Workforce Act.

For purposes of the preceding sentence,
the term ‘agricultural labor or services’ has
the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in sec-
section 3121(g) of the Internal Revenue Code
of 1986, agriculture as defined in section
3(f) of the Fair Labor Standards Act of
1938 (29 U.S.C. 203(f)), the handling,
planting, drying, packing, packaging, proc-
essing, freezing, or grading prior to deliv-
ery for storage of any agricultural or horti-
cultural commodity in its unmanufactured
state, all activities required for the prepa-
ration, processing or manufacturing of a
product of agriculture (as such term is de-
fined in such section 3(f) for further distribution, and activities similar to all the foregoing as they relate to fish or shellfish facilities. An employee described in this clause shall not be counted for purposes of clause (i).

“(iv) EXTENSIONS.—Upon request by an employer having 50 or fewer employees, the Secretary shall allow a one-time 6-month extension of the effective date set out in this subparagraph applicable to such employer. Such request shall be made to the Secretary and shall be made prior to such effective date.

“(v) TRANSITION RULE.—Subject to paragraph (4), the following shall apply to a person or other entity hiring, recruiting, or referring an individual for employment in the United States until the effective date or dates applicable under clauses (i) through (iii):

“(I) This subsection, as in effect before the enactment of the Legal Workforce Act.
“(II) Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 6107(c) of the Legal Workforce Act.

“(III) Any other provision of Federal law requiring the person or entity to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 6107(c) of the Legal Workforce Act, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

“(E) Verification period defined.—

“(i) In general.—For purposes of this paragraph:

“(I) In the case of recruitment or referral, the term ‘verification period’ means the period ending on the date recruiting or referring commences.
“(II) In the case of hiring, the term ‘verification period’ means the period beginning on the date on which an offer of employment is extended and ending on the date that is three business days after the date of hire, except as provided in clause (iii). The offer of employment may be conditioned in accordance with clause (ii).

“(ii) JOB OFFER MAY BE CONDITIONAL.—A person or other entity may offer a prospective employee an employment position that is conditioned on final verification of the identity and employment eligibility of the employee using the procedures established under this paragraph.

“(iii) SPECIAL RULE.—Notwithstanding clause (i)(II), in the case of an alien who is authorized for employment and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period ends three business days after the alien receives the social security account number.
“(2) Reverification for individuals with limited work authorization.—

“(A) In general.—Except as provided in subparagraph (B), a person or entity shall make an inquiry, as provided in subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the three business days after the date on which the employee’s work authorization expires as follows:

“(i) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, beginning on the date that is 6 months after the date of the enactment of such Act.

“(ii) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 12 months
after the date of the enactment of such Act.

“(iii) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 18 months after the date of the enactment of such Act.

“(iv) With respect to employers having one or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 24 months after the date of the enactment of such Act.

“(B) AGRICULTURAL LABOR OR SERVICES.—With respect to an employee performing agricultural labor or services, or an employee recruited or referred by a farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801)), subparagraph (A) shall not apply with respect to the reverification of the employee until the date that is 30 months after
the date of the enactment of the Legal Work-
force Act. For purposes of the preceding sen-
tence, the term ‘agricultural labor or services’
has the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986,
agriculture as defined in section 3(f) of the
203(f)), the handling, planting, drying, packing,
packaging, processing, freezing, or grading
prior to delivery for storage of any agricultural
or horticultural commodity in its unmanufac-
tured state, all activities required for the prepa-
ration, processing, or manufacturing of a prod-
uct of agriculture (as such term is defined in
such section 3(f)) for further distribution, and
activities similar to all the foregoing as they re-
late to fish or shellfish facilities. An employee
described in this subparagraph shall not be
counted for purposes of subparagraph (A).

“(C) REVERIFICATION.—Paragraph
(1)(C)(ii) shall apply to reverifications pursuant
to this paragraph on the same basis as it ap-
plies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and

“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the reverification commences and ending on the date that is the later of 3 years after the date of such reverification or 1 year after the date the individual’s employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CERTAIN EMPLOYEES.—

“(i) IN GENERAL.—Not later than the date that is 6 months after the date of the enactment of the Legal Workforce Act, an employer shall make an inquiry, as provided in subsection (d), using the verification system to seek verification of
the identity and employment eligibility of
any individual described in clause (ii) em-
ployed by the employer whose employment
eligibility has not been verified under the
E-Verify Program described in section
403(a) of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996

“(ii) INDIVIDUALS DESCRIBED.—An
individual described in this clause is any of
the following:

“(I) An employee of any unit of
a Federal, State, or local government.

“(II) An employee who requires a
Federal security clearance working in
a Federal, State, or local government
building, a military base, a nuclear
energy site, a weapons site, or an air-
port or other facility that requires
workers to carry a Transportation
Worker Identification Credential
(TWIC).

“(III) An employee assigned to
perform work in the United States
under a Federal contract, except that this subclause—

“(aa) is not applicable to individuals who have a clearance under Homeland Security Presidential Directive 12 (HSPD 12 clearance), are administrative or overhead personnel, or are working solely on contracts that provide Commercial Off The Shelf goods or services as set forth by the Federal Acquisition Regulatory Council, unless they are subject to verification under subclause (II); and

“(bb) only applies to contracts over the simple acquisition threshold as defined in section 2.101 of title 48, Code of Federal Regulations.

“(B) ON A MANDATORY BASIS FOR Multiple USERS OF SAME SOCIAL SECURITY AC- COUNT NUMBER.—In the case of an employer who is required by this subsection to use the verification system described in subsection (d),
or has elected voluntarily to use such system,
the employer shall make inquiries to the system
in accordance with the following:

“(i) The Commissioner of Social Secu-

rity shall notify annually employees (at the
employee address listed on the Wage and
Tax Statement) who submit a social secu-

rity account number to which more than
one employer reports income and for which
there is a pattern of unusual multiple use.
The notification letter shall identify the
number of employers to which income is
being reported as well as sufficient infor-
mation notifying the employee of the proc-
ess to contact the Social Security Adminis-

tration Fraud Hotline if the employee be-
lieves the employee’s identity may have
been stolen. The notice shall not share in-
formation protected as private, in order to
avoid any recipient of the notice from
being in the position to further commit or
begin committing identity theft.

“(ii) If the person to whom the social
security account number was issued by the
Social Security Administration has been
identified and confirmed by the Commissioner, and indicates that the social security account number was used without their knowledge, the Secretary and the Commissioner shall lock the social security account number for employment eligibility verification purposes and shall notify the employers of the individuals who wrongfully submitted the social security account number that the employee may not be work eligible.

“(iii) Each employer receiving such notification of an incorrect social security account number under clause (ii) shall use the verification system described in subsection (d) to check the work eligibility status of the applicable employee within 10 business days of receipt of the notification.

“(C) ON A VOLUNTARY BASIS.—Subject to paragraph (2), and subparagraphs (A) through (C) of this paragraph, beginning on the date that is 30 days after the date of the enactment of the Legal Workforce Act, an employer may make an inquiry, as provided in subsection (d), using the verification system to seek verification
of the identity and employment eligibility of any individual employed by the employer. If an employer chooses voluntarily to seek verification of any individual employed by the employer, the employer shall seek verification of all individuals employed at the same geographic location or, at the option of the employer, all individuals employed within the same job category, as the employee with respect to whom the employer seeks voluntarily to use the verification system.

An employer’s decision about whether or not voluntarily to seek verification of its current workforce under this subparagraph may not be considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) Verification.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and
“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the verification commences and ending on the date that is the later of 3 years after the date of such verification or 1 year after the date the individual’s employment is terminated.

“(4) EARLY COMPLIANCE.—

“(A) FORMER E-VERIFY REQUIRED USERS, INCLUDING FEDERAL CONTRACTORS.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary is authorized to commence requiring employers required to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws,
including the Federal Acquisition Regulation),
to commence compliance with the requirements
of this subsection (and any additional require-
ments of such Federal acquisition laws and reg-
ulation) in lieu of any requirement to partici-
part in the E-Verify Program.

“(B) Former E-Verify voluntary
users and others desiring early compli-
ance.—Notwithstanding the deadlines in para-
graphs (1) and (2), beginning on the date of
the enactment of the Legal Workforce Act, the
Secretary shall provide for the voluntary com-
pliance with the requirements of this subsection
by employers voluntarily electing to participate
in the E-Verify Program described in section
403(a) of the Illegal Immigration Reform and
1324a note) before such date, as well as by
other employers seeking voluntary early compli-
ance.

“(5) Copying of documentation per-
mitted.—Notwithstanding any other provision of
law, the person or entity may copy a document pre-
sented by an individual pursuant to this subsection
and may retain the copy, but only (except as other-
wise permitted under law) for the purpose of complying with the requirements of this subsection.

“(6) LIMITATION ON USE OF FORMS.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

“(7) GOOD FAITH COMPLIANCE.—

“(A) IN GENERAL.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

“(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

“(i) the failure is not de minimis;

“(ii) the Secretary of Homeland Security has explained to the person or entity the basis for the failure and why it is not de minimis;
“(iii) the person or entity has been provided a period of not less than 30 calendar days (beginning after the date of the explanation) within which to correct the failure; and

“(iv) the person or entity has not corrected the failure voluntarily within such period.

“(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).

“(8) SINGLE EXTENSION OF DEADLINES UPON CERTIFICATION.—In a case in which the Secretary of Homeland Security has certified to the Congress that the employment eligibility verification system required under subsection (d) will not be fully operational by the date that is 6 months after the date of the enactment of the Legal Workforce Act, each deadline established under this section for an employer to make an inquiry using such system shall be extended by 6 months. No other extension of such a deadline shall be made except as authorized under paragraph (1)(D)(iv).”.
(b) DATE OF HIRE.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following:

“(4) DEFINITION OF DATE OF HIRE.—As used in this section, the term ‘date of hire’ means the date of actual commencement of employment for wages or other remuneration, unless otherwise specified.”.

SEC. 1503. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

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

“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

“(1) IN GENERAL.—Patterned on the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), the Secretary of Homeland Security shall establish and administer a verification system through which the Secretary (or a designee of the Secretary, which may be a nongovernmental entity)—

“(A) responds to inquiries made by persons at any time through a toll-free telephone
line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

“(2) INITIAL RESPONSE.—The verification system shall provide confirmation or a tentative non-confirmation of an individual’s identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative non-confirmation, the verification system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

“(3) SECONDARY CONFIRMATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation not later than 10 working days after the date on which the notice of the tentative noncon-
firmation is received by the employee. The Secretary, in consultation with the Commissioner, may extend this deadline once on a case-by-case basis for a period of 10 working days, and if the time is extended, shall document such extension within the verification system. The Secretary, in consultation with the Commissioner, shall notify the employee and employer of such extension. The Secretary, in consultation with the Commissioner, shall create a standard process of such extension and notification and shall make a description of such process available to the public. When final confirmation or nonconfirmation is provided, the verification system shall provide an appropriate code indicating such confirmation or nonconfirmation.

“(4) DESIGN AND OPERATION OF SYSTEM.—

The verification system shall be designed and operated—

“(A) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to reg-
ister all times when such inquiries are not re-
ceived;

“(C) with appropriate administrative, tech-
nical, and physical safeguards to prevent unau-
thorized disclosure of personal information;

“(D) to have reasonable safeguards against
the system’s resulting in unlawful discrimina-
tory practices based on national origin or citi-
zension status, including—

“(i) the selective or unauthorized use
of the system to verify eligibility; or

“(ii) the exclusion of certain individ-
uals from consideration for employment as
a result of a perceived likelihood that addi-
tional verification will be required, beyond
what is required for most job applicants;

“(E) to maximize the prevention of iden-
tity theft use in the system; and

“(F) to limit the subjects of verification to
the following individuals:

“(i) Individuals hired, referred, or re-
ruited, in accordance with paragraph (1)
or (4) of subsection (b).
“(ii) Employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b).

“(iii) Individuals seeking to confirm their own employment eligibility on a voluntary basis.

“(5) RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation)
under the verification system except as provided for in this section or section 205(e)(2)(I) of the Social Security Act.

“(6) Responsibilities of Secretary of Homeland Security.—As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and alien identification or authorization number (or any other information as determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, whether the alien is authorized to be employed in the United States, or to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States.

“(7) Updating Information.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a
manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

“(8) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—

“(A) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(B) CRITICAL INFRASTRUCTURE.—The Secretary may authorize or direct any person or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to use the verification system to the extent the Secretary determines that such use will assist in the protection of the critical infrastructure.
“(9) Remedies.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this paragraph.”.

SEC. 1504. RECRUITMENT, REFERRAL, AND CONTINUATION OF EMPLOYMENT.

(a) Additional Changes to Rules for Recruitment, Referral, and Continuation of Employment.—Section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)) is amended—

(1) in paragraph (1)(A), by striking “for a fee”;

(2) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements of subsection (b).”; and

(3) in paragraph (2), by striking “after hiring an alien for employment in accordance with paragraph (1),” and inserting “after complying with paragraph (1),”.

May 22, 2023 (8:36 p.m.)
(b) **DEFINITION.**—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by section 1602(b) of this Act, is further amended by adding at the end the following:

“(5) **DEFINITION OF RECRUIT OR REFER.**—As used in this section, the term ‘refer’ means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or non-union individuals who pay union membership dues are included in the definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party. As used in this section, the term ‘recruit’ means the act of soliciting a person who is in the United States, directly or indirectly, and referring the person to another with the intent of obtaining employment for that person. Only per-
sons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or nonunion individuals who pay union membership dues are included in this definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit that recruit, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party.”

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that the amendments made by subsection (a) shall take effect 6 months after the date of the enactment of this Act insofar as such amendments relate to continuation of employment.

SEC. 1505. GOOD FAITH DEFENSE.

Section 274A(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(3)) is amended to read as follows:

“(3) GOOD FAITH DEFENSE.—

“(A) DEFENSE.—An employer (or person or entity that hires, employs, recruits, or refers (as defined in subsection (h)(5)), or is otherwise
obligated to comply with this section) who establishes that it has complied in good faith with the requirements of subsection (b)—

“(i) shall not be liable to a job applicant, an employee, the Federal Government, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good-faith reliance on information provided through the system established under subsection (d); and

“(ii) has established compliance with its obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and convincing evidence, that the employer had knowledge that an employee is an unauthorized alien.

“(B) MITIGATION ELEMENT.—For purposes of subparagraph (A)(i), if an employer proves by a preponderance of the evidence that the employer uses a reasonable, secure, and established technology to authenticate the identity
of the new employee, that fact shall be taken
into account for purposes of determining good
faith use of the system established under sub-
section (d).

“(C) Failure to seek and obtain verification.—Subject to the effective dates
and other deadlines applicable under subsection
(b), in the case of a person or entity in the
United States that hires, or continues to em-
ploy, an individual, or recruits or refers an indi-
vidual for employment, the following require-
ments apply:

“(i) Failure to seek verification.—

“(I) In general.—If the person
or entity has not made an inquiry,
under the mechanism established
under subsection (d) and in accord-
ance with the timeframes established
under subsection (b), seeking
verification of the identity and work
eligibility of the individual, the de-
fense under subparagraph (A) shall
not be considered to apply with re-
spect to any employment, except as
provided in subclause (II).

“(II) SPECIAL RULE FOR FAIL-
URE OF VERIFICATION MECHANISM.—
If such a person or entity in good
faith attempts to make an inquiry in
order to qualify for the defense under
subparagraph (A) and the verification
mechanism has registered that not all
inquiries were responded to during the
relevant time, the person or entity can
make an inquiry until the end of the
first subsequent working day in which
the verification mechanism registers
no nonresponses and qualify for such
defense.

“(ii) FAILURE TO OBTAIN
VERIFICATION.—If the person or entity
has made the inquiry described in clause
(i)(I) but has not received an appropriate
verification of such identity and work eligi-
bility under such mechanism within the
time period specified under subsection
(d)(2) after the time the verification in-
quiry was received, the defense under sub-
paragraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”.

SEC. 1506. PREEMPTION AND STATES’ RIGHTS.

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

“(2) PREEMPTION.—

“(A) SINGLE, NATIONAL POLICY.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, insofar as they may now or hereafter relate to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens.

“(B) STATE ENFORCEMENT OF FEDERAL LAW.—

“(i) BUSINESS LICENSING.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification system described in subsection (d) to verify
employment eligibility when and as re-
quired under subsection (b).

“(ii) GENERAL RULES.—A State, at
its own cost, may enforce the provisions of
this section, but only insofar as such State
follows the Federal regulations imple-
menting this section, applies the Federal
penalty structure set out in this section,
and complies with all Federal rules and
guidance concerning implementation of this
section. Such State may collect any fines
assessed under this section. An employer
may not be subject to enforcement, includ-
ing audit and investigation, by both a Fed-
eral agency and a State for the same viola-
tion under this section. Whichever entity,
the Federal agency or the State, is first to
initiate the enforcement action, has the
right of first refusal to proceed with the
enforcement action. The Secretary must
provide copies of all guidance, training,
and field instructions provided to Federal
officials implementing the provisions of
this section to each State.”.
SEC. 1507. REPEAL.

(a) In general.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(b) References.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility confirmation system established under section 274A(d) of the Immigration and Nationality Act, as amended by section 1603 of this Act.

(c) Effective date.—This section shall take effect on the date that is 30 months after the date of the enactment of this Act.

(d) Clerical amendment.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 1508. PENALTIES.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(1)—
(A) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(B) in subparagraph (D), by striking “Service” and inserting “Department of Homeland Security”;

(2) in subsection (e)(4)—

(A) in subparagraph (A), in the matter before clause (i), by inserting “, subject to paragraph (10),” after “in an amount”;

(B) in subparagraph (A)(i), by striking “not less than $250 and not more than $2,000” and inserting “not less than $2,500 and not more than $5,000”;

(C) in subparagraph (A)(ii), by striking “not less than $2,000 and not more than $5,000” and inserting “not less than $5,000 and not more than $10,000”;

(D) in subparagraph (A)(iii), by striking “not less than $3,000 and not more than $10,000” and inserting “not less than $10,000 and not more than $25,000”; and

(E) by moving the margin of the continuation text following subparagraph (B) two ems
to the left and by amending subparagraph (B) to read as follows:

“(B) may require the person or entity to take such other remedial action as is appropriate.”;

(3) in subsection (e)(5)—

(A) in the paragraph heading, strike “PAPERWORK”;

(B) by inserting “, subject to paragraphs (10) through (12),” after “in an amount”;

(C) by striking “$100” and inserting “$1,000”;

(D) by striking “$1,000” and inserting “$25,000”; and

(E) by adding at the end the following:

“Failure by a person or entity to utilize the employment eligibility verification system as required by law, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).”;

(4) by adding at the end of subsection (e) the following:

“(10) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a
civil penalty under paragraph (4)(A) with respect to
a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment or recruitment or
referral by person or entity and in the case of imposition of a civil penalty under paragraph (5) for a
violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed may be waived or reduced if
the violator establishes that the violator acted in
good faith.

“(11) MITIGATION ELEMENT.—For purposes of
paragraph (4), the size of the business shall be
taken into account when assessing the level of civil
money penalty.

“(12) AUTHORITY TO DEBAR EMPLOYERS FOR
certain violations.—

“(A) IN GENERAL.—If a person or entity
is determined by the Secretary of Homeland Se-
curity to be a repeat violator of paragraph
(1)(A) or (2) of subsection (a), or is convicted
of a crime under this section, such person or
entity may be considered for debarment from
the receipt of Federal contracts, grants, or co-
operative agreements in accordance with the debar-
ment standards and pursuant to the debar-
ment procedures set forth in the Federal Acquisition Regulation.

“(B) DOES NOT HAVE CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such a person or entity does not hold a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) HAS CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Govern-
ment’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to any appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) REVIEW.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(13) OFFICE FOR STATE AND LOCAL GOVERNMENT COMPLAINTS.—The Secretary of Homeland Security shall establish an office—

“(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality;

“(B) that is required to indicate to the complaining State or local agency within five business days of the filing of such a complaint
by identifying whether the Secretary will fur-
ther investigate the information provided;

“(C) that is required to investigate those
complaints filed by State or local government
agencies that, on their face, have a substantial
probability of validity;

“(D) that is required to notify the com-
plaining State or local agency of the results of
any such investigation conducted; and

“(E) that is required to report to the Con-
gress annually the number of complaints re-
ceived under this paragraph, the States and lo-
calities that filed such complaints, and the reso-
lution of the complaints investigated by the Sec-
retary.”; and

(5) by amending paragraph (1) of subsection (f)
to read as follows:

“(1) CRIMINAL PENALTY.—Any person or enti-
ty which engages in a pattern or practice of viola-
tions of subsection (a) (1) or (2) shall be fined not
more than $5,000 for each unauthorized alien with
respect to which such a violation occurs, imprisoned
for not more than 18 months, or both, notwith-
standing the provisions of any other Federal law re-
lating to fine levels.”.
SEC. 1509. FRAUD AND MISUSE OF DOCUMENTS.

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “identification document,” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”;

and

(2) in paragraph (2), by striking “identification document” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”.

SEC. 1510. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2025, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by
section 1503 of this Act, including (but not limited to)—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 274A(d), but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the employment eligibility verification system established under such section;

(2) provide such funds annually in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspectors General of the Social Security Administration and the Department of Homeland Security.
(b) CONTINUATION OF EMPLOYMENT VERIFICATION

IN ABSENCE OF TIMELY AGREEMENT.—In any case in
which the agreement required under subsection (a) for any
fiscal year beginning on or after October 1, 2025, has not
been reached as of October 1 of such fiscal year, the latest
agreement between the Commissioner and the Secretary
of Homeland Security providing for funding to cover the
costs of the responsibilities of the Commissioner under
section 274A(d) of the Immigration and Nationality Act
(8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
terim basis for such fiscal year until such time as an
agreement required under subsection (a) is subsequently
reached, except that the terms of such interim agreement
shall be modified by the Director of the Office of Manage-
ment and Budget to adjust for inflation and any increase
or decrease in the volume of requests under the employ-
ment eligibility verification system. In any case in which
an interim agreement applies for any fiscal year under this
subsection, the Commissioner and the Secretary shall, not
later than October 1 of such fiscal year, notify the Com-
mittee on Ways and Means, the Committee on the Judici-
ary, and the Committee on Appropriations of the House
of Representatives and the Committee on Finance, the
Committee on the Judiciary, and the Committee on Ap-
propriations of the Senate of the failure to reach the
agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 1511. FRAUD PREVENTION.

(a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which social security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 1503 of this Act, or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.
(b) ALLowing SuspendiON of USE OF CERTAIN So-
CIAL Security Account NUMbers.—The Secretary of
Homeland Security, in consultation with the Commiss-
ioner of Social Security, shall establish a program which
shall provide a reliable, secure method by which victims
of identity fraud and other individuals may suspend or
limit the use of their social security account number or
other identifying information for purposes of the employ-
ment eligibility verification system established under sec-
tion 274A(d) of the Immigration and Nationality Act (8
U.S.C. 1324a(d)), as amended by section 1503 of this Act.
The Secretary may implement the program on a limited
pilot program basis before making it fully available to all
individuals.

(c) ALLowing PaReNts To PrevenT THEFT OF
Their child’s iDentiTy.—The Secretary of Homeland
Security, in consultation with the Commissioner of Social
Security, shall establish a program which shall provide a
reliable, secure method by which parents or legal guard-
ians may suspend or limit the use of the social security
account number or other identifying information of a
minor under their care for the purposes of the employment
eligibility verification system established under 274A(d) of
the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
as amended by section 1503 of this Act. The Secretary
may implement the program on a limited pilot program basis before making it fully available to all individuals.

SEC. 1512. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION PHOTO TOOL.

An employer who uses the photo matching tool used as part of the E-Verify System shall match the photo tool photograph to both the photograph on the identity or employment eligibility document provided by the employee and to the face of the employee submitting the document for employment verification purposes.

SEC. 1513. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.

Not later than 24 months after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish by regulation not less than 2 Identity Authentication Employment Eligibility Verification pilot programs, each using a separate and distinct technology (the “Authentication Pilots”). The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees which shall be available to any employer that elects to participate in either of the Authentication Pilots. Any participating em-
ployer may cancel the employer’s participation in the Au-
thentication Pilot after one year after electing to partici-
pate without prejudice to future participation. The Sec-
retary shall report to the Committee on the Judiciary of
the House of Representatives and the Committee on the
Judiciary of the Senate the Secretary’s findings on the
Authentication Pilots, including the authentication tech-
ologies chosen, not later than 12 months after com-
mencement of the Authentication Pilots.

SEC. 1514. INSPECTOR GENERAL AUDITS.

(a) In General.—Not later than 1 year after the
date of the enactment of this Act, the Inspector General
of the Social Security Administration shall complete audits
of the following categories in order to uncover evidence
of individuals who are not authorized to work in the
United States:

(1) Workers who dispute wages reported on
their social security account number when they be-
lieve someone else has used such number and name
to report wages.

(2) Children’s social security account numbers
used for work purposes.

(3) Employers whose workers present signifi-
cant numbers of mismatched social security account
numbers or names for wage reporting.
(b) SUBMISSION.—The Inspector General of the Social Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of individuals who are not authorized to work in the United States. The Chairmen of those Committees shall then determine information to be shared with the Secretary of Homeland Security so that such Secretary can investigate the unauthorized employment demonstrated by such evidence.

SEC. 1515. NATIONWIDE E-VERIFY AUDIT.

Not later than 5 years after the date of enactment of this Act, the Secretary of Commerce shall conduct a nationwide audit of compliance with the requirements of section 274A(b) of the Immigration and Nationality Act by employers in all States, and shall report compliance levels on a State-by-State basis. The Secretary of Homeland Security may not adjust the status of an individual under section 24103 until the Secretary of Commerce certifies that all employers in all States are in compliance with the requirements of section 274A(b) of the Immigration and Nationality Act.
TITLE VI—ASYLUM REFORM

SEC. 1601. HUMANITARIAN CAMPUSES.

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

“SEC. 437. HUMANITARIAN CAMPUSES.

“(a) IN GENERAL.—Not later than 12 months after the effective date of this section, the Secretary shall establish not fewer than 5 humanitarian campuses located in high traffic sectors of U.S. Border Patrol, as determined by the Secretary, along the southern border land border of the United States (referred to in this section as a ‘humanitarian campus’).

“(b) PURPOSE.—

“(1) PROCESSING AND MANAGEMENT.—The humanitarian campuses shall carry out processing and management activities for asylum seekers apprehended at the border, including—

“(A) criminal history checks;

“(B) identity verification;

“(C) biometrics collection and analysis;

“(D) medical screenings;

“(E) asylum interviews and credible fear determinations under section 235 of the Immigration and Nationality Act (8 U.S.C. 1225)
and reasonable fear determinations under section 241(b)(3)(B) of that Act (8 U.S.C. 1231(b)(3)(B));

“(F) facilitating coordination and communication between Federal entities and non-governmental organizations that are directly involved in providing assistance to aliens;

“(G) legal orientation programming and communication between aliens and outside legal counsel;

“(H) issuance of legal documents relating to immigration court proceedings of aliens; and

“(I) any other activity the Secretary considers appropriate.

“(2) Consideration of eligibility for additional forms of relief.—In conducting an asylum interviews and credible fear determinations under section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) and reasonable fear determinations under section 241(b)(3)(B) of that Act (8 U.S.C. 1231(b)(3)(B)), the officer shall consider, in addition to whether the alien has a credible fear of persecution, whether the alien may be prima facie eligible for any other form of relief from removal, including—
“(A) withholding of removal under section 241(b)(3) or any cause or claim under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degradation Treatment or Punishment;

“(B) status under subparagraph (T) or (U) of section 101(a)(15);

“(C) special immigrant juvenile status;

“(D) family reunification pursuant to an approved I–130 petition; and

“(E) any other basis for relief from removal under the immigration laws.

“(c) PERSONNEL AND LIVING CONDITIONS.—The humanitarian campuses shall include—

“(1) personnel assigned from—

“(A) U.S. Customs and Border Protection;

“(B) U.S. Immigration and Customs Enforcement;

“(C) the Federal Emergency Management Agency;

“(D) U.S. Citizenship and Immigration Services; and

“(E) the Office of Refugee Resettlement;
“(2) upon agreement with an applicable Federal
agency, personnel from such Federal agency who are
assigned to the humanitarian campus;
“(3) sufficient medical staff, including physi-
cians specializing in pediatric or family medicine,
nurse practitioners, and physician assistants;
“(4) licensed social workers;
“(5) mental health professionals;
“(6) child advocates appointed by the Secretary
of Health and Human Services under section
235(c)(6)(B) of the William Wilberforce Trafficking
Victims Protection Reauthorization Act of 2008 (8
U.S.C. 1232(c)(6)(B)); and
“(7) sufficient space to carry out the processing
and management activities described in subsection
(b).
“(d) CRIMINAL HISTORY CHECKS.—Each criminal
history check carried out under subsection (b)(1) shall be
carried out using a set of fingerprints or other biometric
identifier obtained from—
“(1) the Federal Bureau of Investigation;
“(2) the criminal history repositories of all
States that the individual listed as a current or
former residence; and
“(3) any other appropriate Federal or State database resource or repository, as determined by the Secretary.

“(e) EXCEPTIONS FOR ADDITIONAL PURPOSES.—
Subject to operational and spatial availability, in the event of a major disaster or emergency declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or any homeland security crisis requiring the establishment of a departmental Joint Task Force under section 708(b), the Secretary may temporarily utilize a humanitarian campus to carry out operations relating to such declaration or crisis.

“(f) DONATIONS.—The Department may accept donations from private entities, nongovernmental organizations, and other groups independent of the Federal Government for the care of children and family units detained at a humanitarian campus, including—

“(1) medical goods and services;
“(2) school supplies;
“(3) toys;
“(4) clothing; and
“(5) any other item intended to promote the well-being of such children and family units.

“(g) ACCESS TO FACILITIES FOR PRIVATE ENTITIES AND NONGOVERNMENTAL ORGANIZATIONS.—
“(1) IN GENERAL.—Private entities and non-
governmental organizations that are directly involved
in providing humanitarian or legal assistance to
families and individuals encountered by the Depart-
ment along the southwest border of the United
States, or organizations that provide assistance to
detained individuals, shall have access to humani-
tarian campuses for purposes of—

“(A) legal orientation programming;

“(B) providing case management services
or establishing case management services;

“(C) coordination with the Department
with respect to the care of families and individ-
uals held in humanitarian campuses, including
the care of families and individuals who are re-
leased or scheduled to be released;

“(D) communication between aliens and
outside legal counsel;

“(E) the provision of humanitarian assist-
ance; and

“(F) any other purpose the Secretary con-
siders appropriate.

“(2) ACCESS PLAN.—Not later than 60 days
after the date of the enactment of this section, the
Secretary shall publish in the Federal Register pro-
cedures relating to access to humanitarian campuses under paragraph (1) that ensure—

“(A) the safety of personnel of, and aliens detained in, humanitarian campuses; and

“(B) the orderly management and operation of humanitarian campuses.

“(h) LEGAL COUNSEL.—Aliens detained in a humanitarian campus shall have access to legal counsel in accordance with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), including the opportunity to consult with counsel before any legally determinative aspect of the asylum process occurs.

“(i) PROCEDURES TO FACILITATE COMMUNICATION WITH COUNSEL.—The Secretary shall develop written procedures to permit aliens detained in a humanitarian campus to visit with, and make confidential telephone calls to, legal representatives and legal services providers and to receive incoming calls from legal representatives and legal services providers, in a private and confidential space while in custody, for the purposes of retaining or consulting with counsel or obtaining legal advice from legal services providers.

“(j) LEGAL ORIENTATION.—An alien detained in a humanitarian campus shall be provided the opportunity to receive a complete legal orientation presentation adminis-
tered by a nongovernmental organization in cooperation
with the Executive Office for Immigration Review.

“(k) MANAGEMENT OF HUMANITARIAN CAM-
PUSES.—

“(1) OPERATION.—The Commissioner of U.S.
Customs and Border Protection, in consultation with
the interagency coordinating council established
under paragraph (2), shall operate the humanitarian
campuses.

“(2) INTERAGENCY COORDINATING COM-
MITTEE.—

“(A) ESTABLISHMENT.—There is estab-
lished an interagency coordinating committee
for the purpose of coordinating operations and
management of the humanitarian campuses.

“(B) MEMBERSHIP.—The interagency co-
ordinating committee shall be chaired by the
Commissioner of U.S. Customs and Border
Protection, or his or her designee, and shall in-
clude representatives designated by the heads of
the following agencies:

“(i) U.S. Immigration and Customs
Enforcement.

“(ii) The Federal Emergency Manage-
ment Agency.
“(iii) U.S. Citizenship and Immigration Services.

“(iv) The Office of Refugee Resettlement.

“(v) Any other agency that supplies personnel to the humanitarian campuses, upon agreement between the Commissioner of U.S. Customs and Border Protection and the head of such other agency.

“(l) SCREENING TIMELINE.—Aliens shall undergo a complete full screening under this section not later than 15 days after being processed at the campus, including screening for gang, cartel, or criminal affiliation, legal orientation, and initial credible fear interview.”.

SEC. 1602. EXPEDITED ASYLUM DETERMINATIONS.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 208 the following:

“SEC. 208A. PROCEDURES FOR EXPEDITED ASYLUM DETERMINATIONS.

“(a) IN GENERAL.—In the case of any alien who enters the United States without lawful status the procedures described in this section shall apply.

“(b) ARRIVAL REST PERIOD.—On arrival to a humanitarian campus an alien shall be provided a mandatory
rest period for 72 hours after initial processing of the alien occurs.

“(c) INITIAL SCREENING.—The Secretary of Homeland Security shall ensure that an alien who is subject to this section shall undergo an initial screening within 15 days after arrival at a humanitarian campus, which shall consist of the following:

“(1) LEGAL COUNSEL.—The Secretary of Homeland Security shall ensure each asylum seeker is able to make contact with legal counsel within the first week of arrival, prior to sitting for a credible fear interview.

“(2) CREDIBLE FEAR DETERMINATION.—Any alien seeking asylum who fails to pass the initial credible fear interview shall be subject to expedited removal under section 235.

“(d) SECONDARY SCREENING.—In the case of aliens who successfully pass a credible fear interview, an asylum officer may triage cases and make final decisions on asylum cases not later than 45 days after an initial screening is completed under subsection (c). A secondary screening shall consist of the following:

“(1) IN GENERAL.—An asylum officer shall be required to deny or approve the application for asy-
lum or refer complex or uncertain cases to an immi-

(2) EXPEDITED APPEAL.—Any application for
asylum of an alien that is denied under paragraph
(1) shall be subject to expedited review, not later
than 7 days after such denial, by an asylum officer
other than the asylum officer who denied such appli-
cation.

(3) LIMITED REVIEWABILITY.—Any decision
to deny or approve an application under this section
may not be subject to judicial review, except as pro-
vided in paragraphs (4) and (5).

(4) ADDITIONAL REVIEW.—In any cir-
cumstance in which new evidence related to the ap-
plicant arises during consideration, an additional re-
view may be conducted by an asylum officer within
7 days after such new evidence arises.

(5) VULNERABLE POPULATIONS.—
(A) IN GENERAL.—An alien that is a
member of a vulnerable population may request
additional review.

(B) DESCRIPTION.—A member of a vul-
nerable population includes any individual who
is—
“(i) a pregnant woman or a nursing mother;

“(ii) a woman at disproportionate risk of sexual or gender-based violence, exploitation, or abuse;

“(iii) a person at risk of violence due to their sexual orientation or gender identity;

“(iv) a person with a disability;

“(v) an elderly person;

“(vi) a person with urgent medical needs;

“(vii) a stateless person; and

“(viii) a person holding a valid humanitarian visa.

“(6) ADDITIONAL REVIEW DETERMINATIONS.—An additional review conducted with respect to an alien meeting the requirements of paragraph (3) or (4) may uphold the previous determination or be referred to an immigration judge for a final decision.

“(7) EFFECT OF DENIAL.—Any alien who is denied asylum status under this subsection shall be subject to expedited removal under section 235.

“(e) IMMIGRATION JUDGE REFERRAL.—If referred to an immigration judge, the following shall apply:
“(1) COURT REFERRAL AND CASE MANAGEMENT.—In the case that an asylum officer refers a case to an immigration judge after a secondary or additional review, each alien subject to such referral shall receive a Notice to Appear and be permitted to leave the humanitarian campus. Each such alien shall be placed in a case management program.

“(2) MONITORING.—Each alien in case management shall be consistently monitored, and each adult shall wear a wrist GPS tracker and check in regularly with case officers.

“(3) ADULT CONFIRMATION OF LOCATION.—Any alien placed in case management who is an adult, parent, or legal guardian shall check in on a weekly basis using automated telephone technology that confirms the caller’s identity and location.

“(4) FAILURE TO COMPLY.—Any alien who fails to comply with the case management requirements under this subsection shall be denied asylum and subject to expedited removal under section 235.

“(f) HUMANITARIAN CAMPUS.—In this section, the term ‘humanitarian campus’ means the campus described in section 472 of the Homeland Security Act of 2002.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as soon as practicable, but
not later than 1 year after the date of enactment of this Act.

SEC. 1603. SCREENING AND PROCESSING IN WESTERN HEMISPHERE.

(a) IN GENERAL.—There shall be established not less than 5 facilities in the Western hemisphere that shall offer asylum pre-screening and family reunification services.

(b) LOCATIONS.—Of the facilities established under subsection (a)—

(1) at least one of these shall be located in South America, south of the Darien Province in Panama;

(2) at least one shall be located in Mexico;

(3) at least one shall be located in Central America; and

(4) at least one shall be located in a country that participates in the Caribbean Basin Security Initiative.

(c) SERVICES OFFERED.—The facilities established under this section shall offer the following:

(1) PRE-SCREENING FOR ASYLUM ELIGIBILITY.—Asylum officers shall offer asylum pre-screenings, which may be conducted virtually.

(2) FAMILY RE-UNIFICATION.—The Secretary of Homeland Security shall develop an external fami-
ily reunification process for unmarried sons and
daughters under the age of 21 seeking to be re-
united with any parent with legal status in the
United States.

(3) Employment consultation and applications.—The Secretary of Homeland Security
shall ensure that consultations are provided to aliens
seeking to apply for legal work visas and assess
other legal pathways to citizenship.

(4) Regional economic opportunities.—
The Secretary of Homeland Security, in conjunction
with the Secretary of State, shall ensure individuals
are provided with regional economic opportunities in
areas in close proximity to the facilities established
under this section.

SEC. 1604. RECORDING EXPEDITED REMOVAL AND CREDIBLE FEAR INTERVIEWS.

(a) In general.—The Secretary of Homeland Secu-
rity shall establish quality assurance procedures and take
steps to effectively ensure that questions by employees of
the Department of Homeland Security exercising exp-
dited removal authority under section 235(b) of the Immi-
gration and Nationality Act (8 U.S.C. 1225(b)) are asked
in a uniform manner, to the extent possible, and that both
these questions and the answers provided in response to them are recorded in a uniform fashion.

(b) FACTORS RELATING TO SWORN STATEMENTS.— Where practicable, any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

c) INTERPRETERS.—The Secretary shall ensure that a fluent interpreter, not affiliated with the government of the country from which the alien may claim asylum, is used when the interviewing officer does not speak a language that the alien is fluent in speaking.

d) RECORDINGS IN IMMIGRATION PROCEEDINGS.— There shall be an audio or audio visual recording of interviews of aliens subject to expedited removal. The recording shall be included in the record of proceeding and shall be considered as evidence in any further proceedings involving the alien.

SEC. 1605. RENUNCIATION OF ASYLUM STATUS PURSUANT TO RETURN TO HOME COUNTRY.

(a) IN GENERAL.—Section 208(c) of the Immigration and Nationality Act (8 U.S.C. 1158(c)) is amended by adding at the end the following new paragraph:
“(4) Renunciation of Status Pursuant to Return to Home Country.—

“(A) In General.—Except as provided in subparagraphs (B) and (C), any alien who is granted asylum status under this Act, who, within 5 years after being granted such status, absent changed country conditions, subsequently returns to the country of such alien’s nationality or, in the case of an alien having no nationality, returns to any country in which such alien last habitually resided, and who applied for such status because of persecution or a well-founded fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, shall have his or her status terminated.

“(B) Waiver.—The Secretary has discretion to waive subparagraph (A) if it is established to the satisfaction of the Secretary that the alien had a compelling reason for the return. The waiver may be sought prior to departure from the United States or upon return.
“(C) LAWFUL PERMANENT RESIDENTS.—

Subparagraph (A) shall not apply to lawful permanent residents.”.

(b) CONFORMING AMENDMENT.—Section 208(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(c)(3)) is amended by inserting after “paragraph (2)” the following: “or (4)”.

SEC. 1606. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLICATIONS.

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

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

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

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

(4) by adding at the end the following:

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

(b) CONFORMING AMENDMENT.—Section 208(d)(6) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(6)) is amended by striking “If the” and all that follows and inserting:

“(A) If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(C), the alien shall be permanently ineligible for any benefits under this chapter, effective as the date of the final determination of such an application;

“(B) An application is frivolous if the Secretary of Homeland Security or the Attorney General determines, consistent with subparagraph (C), that any of the material elements are knowingly fabricated.

“(C) In determining that an application is frivolous, the Secretary or the Attorney General, must be satisfied that the applicant, during the course of the proceedings, has had suffi-
cient opportunity to clarify any discrepancies or implausible aspects of the claim.

“(D) For purposes of this section, a finding that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3) or protection pursuant to the Convention Against Torture.”.

SEC. 1607. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.

(a) Asylum Credibility Determinations.—Section 208(b)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

(b) Relief for Removal Credibility Determinations.—Section 240(c)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

SEC. 1608. PENALTIES FOR ASYLUM FRAUD.

Section 1001 of title 18, United States Code, is amended by inserting at the end of the paragraph—
“(d) Whoever, in any matter before the Secretary of Homeland Security or the Attorney General pertaining to asylum under section 208 of the Immigration and Nationality Act or withholding of removal under section 241(b)(3) of such Act, knowingly and willfully—

“(1) makes any materially false, fictitious, or fraudulent statement or representation; or

“(2) makes or uses any false writings or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

shall be fined under this title or imprisoned not more than 10 years, or both.”.

SEC. 1609. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.

Section 3291 of title 18, United States Code, is amended—

(1) by striking “1544,” and inserting “1544, and section 1546,”; and

(2) by striking “offense.” and inserting “offense or within 10 years after the fraud is discovered.”.

SEC. 1610. STANDARD OPERATING PROCEDURES; FACILITIES STANDARDS.

(a) Standard Operating Procedures.—Section 411(k)(1) of the Homeland Security Act of 2002 (6 U.S.C. 211(k)) is amended—
(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E)(iv), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) standard operating procedures regarding the detection, interdiction, inspection, processing, or transferring of alien children that officers and agents of U.S. Customs and Border Protection shall employ in the execution of their duties.”.

(b) Facilities Standards.—

(1) Initial review and update.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall review and update the regulations under part 115 of title 6, Code of Federal Regulations, that set standards to prevent, detect, and respond to sexual abuse and assault in immigration detention facilities and other holding facilities under the jurisdiction of the Department of Homeland Security.

(2) Quadrennial review.—The Secretary shall review and update the regulations referred to in paragraph (1) not less frequently than once every 4 years.
SEC. 1611. CRIMINAL BACKGROUND CHECKS FOR SPONSORS OF UNACCOMPANIED ALIEN CHILDREN.

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

(1) in paragraph (3)—

(A) in subparagraph (A), in the first sentence, by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

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

“(B) CRIMINAL BACKGROUND CHECKS.—

“(i) IN GENERAL.—Before placing an unaccompanied alien child with an individual, the Secretary of Health and Human Services shall—

“(I) conduct a criminal history background check on the individual and each adult member of the individual’s household; and

“(II) if appropriate, collect biometric samples in connection with any such background check.
“(ii) SCOPE.—

“(I) IN GENERAL.—Each biometric criminal history background check required under clause (i) shall be conducted through—

“(aa) the Federal Bureau of Investigation;

“(bb) criminal history repositories of each State the individual lists as a current or former residence; and

“(cc) any other Federal or State database or repository the Secretary of Health and Human Services considers appropriate.

“(II) USE OF RAPID DNA INSTRUMENTS.—DNA analysis of a DNA sample collected under subclause (I) may be carried out with Rapid DNA instruments (as defined in section 3(c) of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702(e))).

“(III) LIMITATION ON USE OF BIOMETRIC SAMPLES.—The Secretary
of Health and Human Services may not release a fingerprint or DNA sample collected, or disclose the results of a fingerprint or DNA analysis conducted under this subparagraph, or any other information obtained pursuant to this section, to the Department of Homeland Security for any immigration enforcement purpose.

“(IV) Access to information through the Department of Homeland Security.—Not later than 14 days after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.

“(iii) Prohibition on placement with individuals convicted of certain offenses.—The Secretary of Health and Human Services may not place an unaccompanied alien child in the custody or
household of an individual who has been convicted of, or is currently being tried for—

“(I) a sex offense (as defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911));

“(II) a crime involving severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102));

“(III) a crime of domestic violence (as defined in section 40002(a) of the Violence Against Women Act (34 U.S.C. 12291(a)));

“(IV) a crime of child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (Public Law 93–247; 42 U.S.C. 5101 note));

“(V) murder, manslaughter, or an attempt to commit murder or manslaughter (within the meanings of such terms in sections 1111, 1112,
and 1113 of title 18, United States Code); or

“(VI) a crime involving receipt, distribution, or possession of a visual depiction of a minor engaging in sexually explicit conduct (within the meanings of such terms in section 2252 of title 18, United States Code).”; and

(D) by adding at the end the following:

“(E) WELL-BEING FOLLOW-UP CALLS.—

Not later than 30 days after the date on which an unaccompanied alien child is released from the custody of the Secretary of Health and Human Services, and every 60 days thereafter until the date on which a final decision has been issued in the removal proceedings of the child or such proceedings are terminated, the Secretary shall conduct a follow-up telephone call with the unaccompanied alien child and the child’s custodian or the primary point of contact for any other entity with which the child was placed.

“(F) CHANGE OF ADDRESS.—The Secretary of Health and Human Services shall—
“(i) require each custodian with whom an unaccompanied alien child is placed under this subsection to notify the Secretary with respect to any change in the unaccompanied alien child’s physical or mailing address, including any situation in which the unaccompanied alien child permanently departs the custodian’s residence, not later than 7 days after the date on which such change or departure occurs; and

“(ii) develop and implement a system that permits custodians to submit notifications electronically with respect to a change of address.”.

(b) COLLECTION AND COMPILATION OF STATISTICAL INFORMATION.—Section 462(b)(1)(K) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(K)) is amended by striking “; and” and inserting “, including—

“(i) the average length of time from apprehension to the child’s master calendar hearing, organized by the fiscal year in which the children were apprehended by U.S. Customs and Border Protection;
“(ii) the number of children identified under clause (i) who did and did not appear at master calendar hearings, including the percentage of children in each category who were represented by counsel;

“(iii) the average length of time from apprehension to the child’s merits hearing, organized by the fiscal year in which the children were apprehended by U.S. Customs and Border Protection;

“(iv) the number of children identified under clause (i) who did and did not appear at merits hearings, including the percentage of children in each category who are represented by counsel; and

“(v) the total number of well-being follow-up calls conducted under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)(E)) at each time interval following placement with a custodian or other entity, and the number of children that the Secretary of Health and Human Services is unable to contact at each interval, organized by the fiscal
year in which the children were apprehended by U.S. Customs and Border Protection; and”.

(c) CLARIFICATION.—Unaccompanied alien children shall be processed and reunited with their sponsors in the United States in accordance with guidance outlined in the stipulated settlement agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85–4544–RJK) (commonly known as the “Flores settlement agreement”).

SEC. 1612. FRAUD IN CONNECTION WITH THE TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1041. Fraud in connection with the transfer of custody of unaccompanied alien children

“(a) IN GENERAL.—It shall be unlawful for a person to obtain custody of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))—

“(1) by making any materially false, fictitious, or fraudulent statement or representation; or
“(2) by making or using any false writing or document with the knowledge that such writing or document contains any materially false, fictitious, or fraudulent statement or entry.

“(b) Penalties.—

“(1) In general.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined under this title and imprisoned for not less than 1 year.

“(2) Enhanced penalty for trafficking.—If the primary purpose of a violation, attempted violation, or conspiracy to violate this section was to subject the child to sexually explicit activity or any other form of exploitation, the offender shall be fined under this title and imprisoned for not less than 15 years.”.

(b) Clerical Amendment.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

SEC. 1613. HIRING AUTHORITY.

(a) U.S. Immigration and Customs Enforcement.—
(1) IN GENERAL.—The Director of U.S. Immigration and Customs Enforcement shall hire, train, and assign—

(A) not fewer than 300 Enforcement and Removal Operations support personnel to address case management responsibilities relating to aliens apprehended along the southwest border, and the operation of humanitarian campuses established under section 437(a) of the Homeland Security Act of 2002;

(B) not fewer than 128 attorneys in the Office of the Principal Legal Advisor;

(C) not fewer than 41 support staff within the Office of the Principal Legal Advisor to assist immigration judges within the Executive Office for Immigration Review with removal, asylum, and custody determination proceedings; and

(D) not fewer than 500 asylum officers to assist in expedited asylum determinations at humanitarian campuses established under section 1601.

(2) GAO REVIEW AND REPORT RELATING TO STAFFING NEEDS.—
(A) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(i) U.S. Immigration and Customs Enforcement activities and staffing needs related to irregular migration influx events along the southwest border during fiscal years 2014, 2019, and 2021, including—

(I) the total number of aliens placed in removal proceedings in connection with such irregular migration influx events;

(II) the number of hours dedicated to responding to irregular migration influx events by Enforcement and Removal Operations officers, Enforcement and Removal Operations support personnel, attorneys within the Office of the Principal Legal Advisor, and support staff within the Office of the Principal Legal Advisor; and

(III) the impact that response to such irregular migration influx events had on the ability of U.S. Immigration and Customs Enforcement to
carry out other aspects of its mission, including the regular transport of migrants from U.S. Customs and Border Protection facilities to U.S. Immigration and Customs Enforcement facilities; and

(ii) staffing levels within the Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, including the impact such staffing levels have on docketing of cases within the Executive Office for Immigration Review.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that describes the results of the review conducted under subparagraph (A).

(b) EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—The Director of the Executive Office for Immigration Review shall hire, train, and assign not fewer than 150 new Immigration Judge teams, including staff attorneys and all applicable support staff for such Immigration Judge teams.
(c) U.S. Citizenship and Immigration Services.—The Director of U.S. Citizenship and Immigration Services shall hire, train, and assign not fewer than 300 asylum officers.

SEC. 1614. HUMANITARIAN STATUS.


(1) in subparagraph (U)(iii), by striking “or” at the end;

(2) in subparagraph (V)(ii)(II), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(W) an alien who is prima facie eligible for asylum based on overwhelming evidence during an asylum prescreening at a facility in the Western hemisphere, except that the number of aliens admitted under this status may not exceed the number of refugees authorized to enter during a fiscal year.”.

SEC. 1615. TWO STRIKE POLICY.

(a) In General.—Section 208 of the Immigration and Nationality Act is amended by adding at the end the following:

“(f) Entry at an Unauthorized Location.—
“(1) LOGGING UNLAWFUL ENTRY.—Any alien who fails to enter the United States at a designated port of entry shall be logged by an agent biometrically and informed by such agent that applications for asylum may only be made at a designated port of entry.

“(2) SUBSEQUENT ENTRY.—Any alien who fails to enter the United States at a designated port of entry after being logged under paragraph (1) shall be subject to expedited removal under section 235.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 1616. LOAN FORGIVENESS FOR LEGAL SERVICE PROVIDERS AT HUMANITARIAN CAMPUSES.

Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 1601 of this Act, is amended by adding at the end the following:

“SEC. 438. LOAN FORGIVENESS FOR LEGAL SERVICE PROVIDERS AT HUMANITARIAN CAMPUSES.

“(a) PROGRAM AUTHORIZED.—

“(1) LOAN FORGIVENESS AUTHORIZED.—The Secretary, in coordination with the Secretary of Education, shall forgive, in accordance with this sec-
tion, the qualified loan amount described in sub-
section (b) of the eligible student loan obligation of
a borrower who—

“(A) has attended an accredited law school
at an institution of higher education (as defined
in section 102 of the Higher Education Act of
1965) and obtained a Juris Doctor degree;

“(B) has completed not less than four
years of full-time employment as an attorney
providing legal services at a humanitarian cam-

“(C) is not in default on a loan for which
the borrower seeks forgiveness.

“(2) METHOD OF LOAN FORGIVENESS.—To
provide loan forgiveness under paragraph (1), the
Secretary, in coordination with the Secretary of
Education, is authorized to carry out a program—

“(A) through the holder of the loan, to as-
sume the obligation to repay a qualified loan
amount for a loan made, insured, or guaranteed
under part B of the Higher Education Act of
1965 (other than an excepted PLUS loan or an
excepted consolidation loan (as such terms are
defined in section 493C(a) of such Act of
1965)); and
“(B) to cancel a qualified loan amount for
a loan made under part D or E of such Act of
1965 (other than an excepted PLUS loan or an
excepted consolidation loan (as such terms are
defined in section 493C(a) of such Act of
1965)).

“(3) REGULATIONS.—The Secretary is author-
ized to issue such regulations as may be necessary
to carry out this section.

“(b) QUALIFIED LOANS AMOUNT.—

“(1) AMOUNT OF FORGIVENESS.—The Sec-
retary shall forgive 75 percent of the eligible student
loan obligation of a borrower described in subsection
(a)(1) that is outstanding after the completion of the
fourth year of employment described in such para-
graph.

“(2) ELIGIBLE STUDENT LOAN OBLIGATION.—
The term ‘eligible student loan obligation’ has the
meaning given the term ‘student loan’ in section
428L of the Higher Education Act of 1965, except
that only the portion of such a student loan that is
attributable to the borrower’s study of law and at-
tainment of a Juris Doctor degree (and not to un-
dergraduate study or other courses of study) shall be
included when calculating the outstanding eligible
student loan obligation of a borrower for purposes of paragraph (1).

“(c) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.”.

TITLE VII—RULE OF LAW, SECURITY, AND ECONOMIC DEVELOPMENT IN CENTRAL AMERICA

Subtitle A—Promoting the Rule of Law, Security, and Economic Development in Central America

SEC. 1701. UNITED STATES STRATEGY FOR ENGAGEMENT IN CENTRAL AMERICA.

(a) IN GENERAL.—The Secretary of State shall implement a 4-year strategy, to be known as the “United States Strategy for Engagement in Central America” (referred to in this subtitle as the “Strategy”)—

(1) to advance reforms in Central America; and

(2) to address the key factors contributing to the flight of families, unaccompanied noncitizen children, and other individuals from Central America to the United States.

(b) ELEMENTS.—The Strategy shall include efforts—
(1) to strengthen democratic governance, accountability, transparency, and the rule of law;
(2) to combat corruption and impunity;
(3) to improve access to justice;
(4) to bolster the effectiveness and independence of judicial systems and public prosecutors’ offices;
(5) to improve the effectiveness of civilian police forces;
(6) to confront and counter the violence, extortion, and other crimes perpetrated by armed criminal gangs, illicit trafficking organizations, and organized crime, while disrupting recruitment efforts by such organizations;
(7) to disrupt money laundering and other illicit financial operations of criminal networks, armed gangs, illicit trafficking organizations, and human smuggling networks;
(8) to promote greater respect for internationally recognized human rights, labor rights, fundamental freedoms, and the media;
(9) to enhance accountability for government officials, including police and security force personnel, who are credibly alleged to have committed serious violations of human rights or other crimes;
(10) to enhance the capability of governments in Central America to protect and provide for vulnerable and at-risk populations;

(11) to address the underlying causes of poverty and inequality and the constraints to inclusive economic growth in Central America; and

(12) to prevent and respond to endemic levels of sexual, gender-based, and domestic violence.

(e) Coordination and Consultation.—In implementing the Strategy, the Secretary of State shall—

(1) coordinate with the Secretary of the Treasury, the Secretary of Defense, the Secretary, the Attorney General, the Administrator of the United States Agency for International Development, and the Chief Executive Officer of the United States Development Finance Corporation; and

(2) consult with the Director of National Intelligence, national and local civil society organizations in Central America and the United States, and the governments of Central America.

(d) Support for Central American Efforts.—To the degree feasible, the Strategy shall support or complement efforts being carried out by the Governments of El Salvador, of Guatemala, and of Honduras, in coordina-
tion with bilateral and multilateral donors and partners, including the Inter-American Development Bank.

SEC. 1702. SECURING SUPPORT OF INTERNATIONAL DONORS AND PARTNERS.

(a) PLAN.—The Secretary of State shall implement a 4-year plan—

(1) to secure support from international donors and regional partners to enhance the implementation of the Strategy;

(2) to identify governments that are willing to provide financial and technical assistance for the implementation of the Strategy and the specific assistance that will be provided; and

(3) to identify and describe the financial and technical assistance to be provided by multilateral institutions, including the Inter-American Development Bank, the World Bank, the International Monetary Fund, the Andean Development Corporation—Development Bank of Latin America, and the Organization of American States.

(b) DIPLOMATIC ENGAGEMENT AND COORDINATION.—The Secretary of State, in coordination with the Secretary of the Treasury, as appropriate, shall—

(1) carry out diplomatic engagement to secure contributions of financial and technical assistance
from international donors and partners in support of
the Strategy; and

(2) take all necessary steps to ensure effective
cooperation among international donors and part-
ners supporting the Strategy.

SEC. 1703. COMBATING CORRUPTION, STRENGTHENING
THE RULE OF LAW, AND CONSOLIDATING
DEMOCRATIC GOVERNANCE.

The Secretary of State and the Administrator of the
United States Agency for International Development are
authorized—

(1) to combat corruption in Central America by
supporting—

(A) Inspectors General and oversight institu-
tions, including—

(i) support for multilateral support
missions for key ministries, including min-
istries responsible for tax, customs, proc-
curement, and citizen security; and

(ii) relevant training for inspectors
and auditors;

(B) multilateral support missions against
corruption and impunity;

(C) civil society organizations conducting
oversight of executive and legislative branch of-
ficials and functions, police and security forces, and judicial officials and public prosecutors; and

(D) the enhancement of freedom of information mechanisms;

(2) to strengthen the rule of law in Central America by supporting—

(A) Attorney General offices, public prosecutors, and the judiciary, including enhancing investigative and forensics capabilities;

(B) an independent, merit-based selection processes for judges and prosecutors, independent internal controls, and relevant ethics and professional training, including training on sexual, gender-based, and domestic violence;

(C) improved victim, witness, and whistle-blower protection and access to justice; and

(D) reforms to and the improvement of prison facilities and management;

(3) to consolidate democratic governance in Central America by supporting—

(A) reforms of civil services, related training programs, and relevant laws and processes that lead to independent, merit-based selection processes;
(B) national legislatures and their capacity
to conduct oversight of executive branch func-
tions;

(C) reforms to, and strengthening of, political
party and campaign finance laws and electoral
tribunals; and

(D) local governments and their capacity
to provide critical safety, education, health, and
sanitation services to citizens; and

(4) to defend human rights by supporting—

(A) human rights ombudsman offices;

(B) government protection programs that
provide physical protection and security to
human rights defenders, journalists, trade
unionists, whistleblowers, and civil society activists who are at risk;

(C) civil society organizations that promote
and defend human rights; and

(D) civil society organizations that address
sexual, gender-based, and domestic violence,
and that protect victims of such violence.
SEC. 1704. COMBATING CRIMINAL VIOLENCE AND IMPROVING CITIZEN SECURITY.

The Secretary of State and the Administrator of the United States Agency for International Development are authorized—

(1) to counter the violence and crime perpetrated by armed criminal gangs, illicit trafficking organizations, and human smuggling networks in Central America by providing assistance to civilian law enforcement, including support for—

(A) the execution and management of complex, multi-actor criminal cases;

(B) the enhancement of intelligence collection capacity, and training on civilian intelligence collection (including safeguards for privacy and basic civil liberties), investigative techniques, forensic analysis, and evidence preservation;

(C) community policing policies and programs;

(D) the enhancement of capacity to identify, investigate, and prosecute crimes involving sexual, gender-based, and domestic violence; and

(E) port, airport, and border security officials, agencies and systems, including—
(i) the professionalization of immigration personnel;
(ii) improvements to computer infrastructure and data management systems, secure communications technologies, non-intrusive inspection equipment, and radar and aerial surveillance equipment; and
(iii) assistance to canine units;
(2) to disrupt illicit financial networks in Central America, including by supporting—
(A) finance ministries, including the imposition of financial sanctions to block the assets of individuals and organizations involved in money laundering or the financing of armed criminal gangs, illicit trafficking networks, human smuggling networks, or organized crime;
(B) financial intelligence units, including the establishment and enhancement of anti-money laundering programs; and
(C) the reform of bank secrecy laws;
(3) to assist in the professionalization of civilian police forces in Central America by supporting—
(A) reforms with respect to personnel recruitment, vetting, and dismissal processes, in-
cluding the enhancement of polygraph capability for use in such processes;

(B) Inspectors General and oversight offices, including relevant training for inspectors and auditors, and independent oversight mechanisms, as appropriate; and

(C) training and the development of protocols regarding the appropriate use of force and human rights; and

(4) to improve crime prevention and to reduce violence, extortion, child recruitment into gangs, and sexual slavery by supporting—

(A) the improvement of child protection systems;

(B) the enhancement of programs for at-risk youth, including the improvement of community centers and programs aimed at successfully reinserting former gang members;

(C) livelihood programming that provides youth and other at-risk individuals with legal and sustainable alternatives to gang membership;

(D) safe shelter and humanitarian responses for victims of crime and internal displacement; and
programs to receive and effectively re-
integrate repatriated migrants in El Salvador,
Guatemala, and Honduras.

SEC. 1705. COMBATING SEXUAL, GENDER-BASED, AND DO-
MESTIC VIOLENCE.

The Secretary of State and the Administrator of the
United States Agency for International Development are
authorized to counter sexual, gender-based, and domestic
violence in Central American countries by—

(1) broadening engagement among national and
local institutions to address sexual, gender-based,
and domestic violence;

(2) supporting educational initiatives to reduce
sexual, gender-based, and domestic violence;

(3) supporting outreach efforts tailored to meet
the needs of women, girls, and other vulnerable indi-
viduals at risk of violence and exploitation;

(4) formalizing standards of care and confiden-
tiality at police, health facilities, and other govern-
ment facilities; and

(5) establishing accountability mechanisms for
perpetrators of violence.
Subtitle B—Information Campaign on the Dangers of Irregular Migration

SEC. 1711. INFORMATION CAMPAIGN ON DANGERS OF IRREGULAR MIGRATION.

(a) In General.—The Secretary of State, in coordination with the Secretary, shall design and implement public information campaigns in El Salvador, Guatemala, Honduras, and other appropriate Central American countries—

(1) to disseminate information about the potential dangers of travel to the United States;

(2) to provide accurate information about United States immigration law and policy; and

(3) to provide accurate information about the availability of asylum, other humanitarian protections in countries in the Western Hemisphere, and other legal means for migration.

(b) Elements.—The information campaigns implemented pursuant to subsection (a), to the greatest extent possible—

(1) shall be targeted at regions with high levels of outbound migration or significant populations of internally displaced persons;
(2) shall include examples of valid and invalid asylum claims;
(3) shall be conducted in local languages;
(4) shall employ a variety of communications media, including social media; and
(5) shall be developed in coordination with program officials at the Department of Homeland Security, the Department of State, and other government, nonprofit, or academic entities in close contact with migrant populations from El Salvador, Guatemala, and Honduras, including repatriated migrants.

Subtitle C—Cracking Down on Criminal Organizations

SEC. 1721. ENHANCED INVESTIGATION AND PROSECUTION OF HUMAN SMUGGLING NETWORKS AND TRAFFICKING ORGANIZATIONS.

The Attorney General and the Secretary shall expand collaboration on the investigation and prosecution of human smuggling networks and trafficking organizations targeting migrants, asylum seekers, and unaccompanied children and operating at the southwestern border of the United States, including the continuation and expansion of anti-trafficking coordination teams.
SEC. 1722. ENHANCED PENALTIES FOR ORGANIZED SMUGGLING SCHEMES.

(a) In general.—Section 274(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(B)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(2) by inserting after clause (ii) the following: “(iii) in the case of a violation of subparagraph (A)(i) during and in relation to which the person, while acting for profit or other financial gain, knowingly directs or participates in a scheme to cause any person (other than a parent, spouse, sibling, son or daughter, grandparent, or grandchild of the offender) to enter or to attempt to enter the United States at the same time at a place other than a designated port of entry or place other than designated by the Secretary, be fined under title 18, United States Code, imprisoned not more than 20 years, or both;”;

and

(3) in clause (iv), as redesignated, by inserting “commits or attempts to commit sexual assault of,” after “section 1365 of title 18, United States Code) to,”.

(b) Bulk cash smuggling.—Section 5332(b)(1) of title 31, United States Code, is amended—
(1) in the paragraph heading, by striking “TERM OF IMPRISONMENT.—” and inserting “IN GENERAL.—”; and

(2) by striking “5 years” and inserting “10 years, fined under title 18, or both”.

SEC. 1723. EXPANDING FINANCIAL SANCTIONS ON NARCOTICS TRAFFICKING AND MONEY LAUNDERING.

(a) FINANCIAL SANCTIONS EXPANSION.—The Secretary of the Treasury, the Attorney General, the Secretary of State, the Secretary of Defense, and the Director of Central Intelligence shall expand investigations, intelligence collection, and analysis pursuant to the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.) to increase the identification and application of sanctions against—

(1) significant foreign narcotics traffickers and their organizations and networks; and

(2) foreign persons, including government officials, who provide material, financial, or technological support to such traffickers, organizations, or networks.

(b) SPECIFIC TARGETS.—The activities described in subsection (a) shall specifically target foreign narcotics traffickers, their organizations and networks, and the for-
eign persons, including government officials, who provide
material, financial, or technological support to such traf-
fickers, organizations, and networks that are present and
operating in Central America.

(c) Authorization of Appropriations.—There
are authorized to be appropriated such sums as may be
necessary to carry out subsection (a).

SEC. 1724. SUPPORT FOR TRANSNATIONAL ANTI-GANG
TASK FORCES FOR COUNTERING CRIMINAL
GANGS.

The Director of the Federal Bureau of Investigation,
the Director of the Drug Enforcement Administration, the
Director of Homeland Security Investigations, and the
Secretary, in coordination with the Secretary of State,
shall expand the use of transnational task forces that seek
to address transnational crime perpetrated by gangs in El
Salvador, Guatemala, Honduras, and any other identified
country by—

(1) expanding transnational criminal investiga-
tions focused on criminal gangs in identified coun-
tries, such as MS–13 and 18th Street;

(2) expanding training and partnership efforts
with law enforcement entities in identified countries
to disrupt and dismantle criminal gangs, both inter-
nationally and in their respective countries;
(3) establishing or expanding gang-related investigative units;

(4) collecting and disseminating intelligence to support related United States-based investigations; and

(5) expanding programming related to gang intervention and prevention for at-risk youth.

DIVISION B—AMERICAN DREAM AND PROMISE

SEC. 21000. SHORT TITLE.

This division may be cited as the “American Dream and Promise Act”.

TITLE I—DREAM ACT

SEC. 21001. SHORT TITLE.

This title may be cited as the “Dream Act”.

SEC. 21002. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) Conditional Basis for Status.—Notwithstanding any other provision of law, and except as provided in section 21004(c)(2), an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to...
have obtained such status on a conditional basis subject
to the provisions of this title.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other
provision of law, the Secretary or the Attorney Gen-
eral shall adjust to the status of an alien lawfully
admitted for permanent residence on a conditional
basis, or without the conditional basis as provided in
section 21004(c)(2), an alien who is inadmissible or
deportable from the United States, is subject to a
grant of Deferred Enforced Departure, has tem-
porary protected status under section 244 of the Im-
migration and Nationality Act (8 U.S.C. 1254a), or
is the son or daughter of an alien admitted as a non-
immigrant under subparagraph (E)(i), (E)(ii),
(H)(i)(b), or (L) of section 101(a)(15) of such Act
(8 U.S.C. 1101(a)(15)) if—

(A) the alien has been continuously phys-
ically present in the United States since the
date that is 3 years prior to the date of enact-
ment;

(B) the alien was 18 years of age or
younger on the date on which the alien entered
the United States and has continuously resided
in the United States since such entry;
(C) the alien—

(i) subject to paragraph (2), is not in-admissible under paragraph (1), (6)(E), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) is not barred from adjustment of status under this title based on the criminal and national security grounds described under subsection (c), subject to the provisions of such subsection; and

(D) the alien—

(i) has been admitted to an institution of higher education;

(ii) has been admitted to an area career and technical education school at the postsecondary level;

(iii) in the United States, has ob-tained—
(I) a high school diploma or a commensurate alternative award from a public or private high school;

(II) a General Education Development credential, a high school equivalency diploma recognized under State law, or another similar State-authorized credential;

(III) a credential or certificate from an area career and technical education school at the secondary level; or

(IV) a recognized postsecondary credential; or

(iv) is enrolled in secondary school or in an education program assisting students in—

(I) obtaining a high school diploma or its recognized equivalent under State law;

(II) passing the General Education Development test, a high school equivalence diploma examination, or
(III) obtaining a certificate or credential from an area career and technical education school providing education at the secondary level; or

(IV) obtaining a recognized post-secondary credential.

(2) Waiver of grounds of inadmissibility.—With respect to any benefit under this title, and in addition to the waivers under subsection (c)(2), the Secretary may waive the grounds of inadmissibility under paragraph (1), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(3) Application fee.—

(A) In general.—The Secretary may, subject to an exemption under section 23003(c),

require an alien applying under this section to pay a reasonable fee that is commensurate with the cost of processing the application but does not exceed $495.00.

(B) Special procedures for applicants with DACA.—The Secretary shall establish a streamlined procedure for aliens who have
been granted DACA and who meet the require-
ments for renewal (under the terms of the pro-
gram in effect on January 1, 2017) to apply for
adjustment of status to that of an alien lawfully
admitted for permanent residence on a condi-
tional basis under this section, or without the
conditional basis as provided in section
21004(c)(2). Such procedure shall not include a
requirement that the applicant pay a fee, except
that the Secretary may require an applicant
who meets the requirements for lawful perma-
nent residence without the conditional basis
under section 21004(c)(2) to pay a fee that is
commensurate with the cost of processing the
application, subject to the exemption under sec-
tion 23003(c).

(4) BACKGROUND CHECKS.—The Secretary
may not grant an alien permanent resident status on
a conditional basis under this section until the re-
quirements of section 23002 are satisfied.

(5) MILITARY SELECTIVE SERVICE.—An alien
applying for permanent resident status on a condi-
tional basis under this section, or without the condi-
tional basis as provided in section 21004(c)(2), shall
establish that the alien has registered under the
Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under such Act.

(e) CRIMINAL AND NATIONAL SECURITY BARS.—

(1) GROUNDS OF INELIGIBILITY.—Except as provided in paragraph (2), an alien is ineligible for adjustment of status under this title (whether on a conditional basis or without the conditional basis as provided in section 21004(e)(2)) if any of the following apply:

(A) The alien is inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(B) Excluding any offense under State law for which an essential element is the alien’s immigration status, and any minor traffic offense, the alien has been convicted of—

(i) any felony offense;

(ii) two or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, and any offense involving civil dis-
obedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(iii) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(I) a victim of domestic violence, sexual assault, stalking, child abuse or neglect, abuse or neglect in later life, or human trafficking;

(II) battered or subjected to extreme cruelty; or


(2) Waivers for Certain Misdemeanors.—For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may—

(A) waive the grounds of inadmissibility under subparagraphs (A), (C), and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless the con-
305

viction forming the basis for inadmissibility
would otherwise render the alien ineligible
under paragraph (1)(B) (subject to subpara-
graph (B)); and

(B) for purposes of clauses (ii) and (iii) of
paragraph (1)(B), waive consideration of—

(i) one misdemeanor offense if the
alien has not been convicted of any offense
in the 5-year period preceding the date on
which the alien applies for adjustment of
status under this title; or

(ii) up to two misdemeanor offenses if
the alien has not been convicted of any of-
fense in the 10-year period preceding the
date on which the alien applies for adjust-
ment of status under this title.

(3) AUTHORITY TO CONDUCT SECONDARY RE-
VIEW.—

(A) IN GENERAL.—Notwithstanding an
alien’s eligibility for adjustment of status under
this title, and subject to the procedures de-
scribed in this paragraph, the Secretary may,
as a matter of non-delegable discretion, provi-
sonally deny an application for adjustment of
status (whether on a conditional basis or with-
out the conditional basis as provided in section 21004(e)(2)) if the Secretary, based on clear and convincing evidence, which shall include credible law enforcement information, determines that the alien is described in subparagraph (B) or (D).

(B) **Public Safety**.—An alien is described in this subparagraph if—

(i) excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, any offense under State law for which an essential element is the alien’s immigration status, any offense involving civil disobedience without violence, and any minor traffic offense, the alien—

(I) has been convicted of a misdemeanor offense punishable by a term of imprisonment of more than 30 days; or

(II) has been adjudicated delinquent in a State or local juvenile court
proceeding that resulted in a disposition ordering placement in a secure facility; and

(ii) the alien poses a significant and continuing threat to public safety related to such conviction or adjudication.

(C) Public Safety Determination.—

For purposes of subparagraph (B)(ii), the Secretary shall consider the recency of the conviction or adjudication; the length of any imposed sentence or placement; the nature and seriousness of the conviction or adjudication, including whether the elements of the offense include the unlawful possession or use of a deadly weapon to commit an offense or other conduct intended to cause serious bodily injury; and any mitigating factors pertaining to the alien’s role in the commission of the offense.

(D) Gang Participation.—An alien is described in this subparagraph if the alien has, within the 5 years immediately preceding the date of the application, knowingly, willfully, and voluntarily participated in offenses committed by a criminal street gang (as described in subsections (a) and (c) of section 521 of title 18,
United States Code) with the intent to promote
or further the commission of such offenses.

(E) EVIDENTIARY LIMITATION.—For pur-
poses of subparagraph (D), allegations of gang
membership obtained from a State or Federal
in-house or local database, or a network of
databases used for the purpose of recording and
sharing activities of alleged gang members
across law enforcement agencies, shall not es-
tablish the participation described in such para-

(F) NOTICE.—

(i) IN GENERAL.—Prior to rendering
a discretionary decision under this para-
graph, the Secretary shall provide written
notice of the intent to provisionally deny
the application to the alien (or the alien’s
counsel of record, if any) by certified mail
and, if an electronic mail address is pro-
vided, by electronic mail (or other form of
electronic communication). Such notice
shall—

(I) articulate with specificity all
grounds for the preliminary deter-
mination, including the evidence relied
upon to support the determination; and

(II) provide the alien with not less than 90 days to respond.

(ii) SECOND NOTICE.—Not more than 30 days after the issuance of the notice under clause (i), the Secretary shall provide a second written notice that meets the requirements of such clause.

(iii) NOTICE NOT RECEIVED.—Notwithstanding any other provision of law, if an applicant provides good cause for not contesting a provisional denial under this paragraph, including a failure to receive notice as required under this subparagraph, the Secretary shall, upon a motion filed by the alien, reopen an application for adjustment of status under this title and allow the applicant an opportunity to respond, consistent with clause (i)(II).

(G) JUDICIAL REVIEW OF A PROVISIONAL DENIAL.—

(i) IN GENERAL.—Notwithstanding any other provision of law, if, after notice and the opportunity to respond under sub-
paragraph (F), the Secretary provisionally
denies an application for adjustment of
status under this Act, the alien shall have
60 days from the date of the Secretary’s
determination to seek review of such deter-
mination in an appropriate United States
district court.

(ii) Scope of review and decision.—Notwith-
standing any other provi-
sion of law, review under paragraph (1)
shall be de novo and based solely on the
administrative record, except that the ap-
plicant shall be given the opportunity to
supplement the administrative record and
the Secretary shall be given the oppor-
tunity to rebut the evidence and arguments
raised in such submission. Upon issuing its
decision, the court shall remand the mat-
ter, with appropriate instructions, to the
Department of Homeland Security to
render a final decision on the application.

(iii) Appointed counsel.—Notwith-
standing any other provision of law, an ap-
plicant seeking judicial review under clause
(i) shall be represented by counsel. Upon
the request of the applicant, counsel shall be appointed for the applicant, in accordance with procedures to be established by the Attorney General within 90 days of the date of the enactment of this Act, and shall be funded in accordance with fees collected and deposited in the Immigration Counsel Account under section 23012.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term “felony offense” means an offense under Federal or State law that is punishable by a maximum term of imprisonment of more than 1 year;

(B) the term “misdemeanor offense” means an offense under Federal or State law that is punishable by a term of imprisonment of more than 5 days but not more than 1 year; and

(C) the term “crime of domestic violence” means any offense that has as an element the use, attempted use, or threatened use of physical force against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in
common, by an individual who is cohabiting
with or has cohabited with the person as a
spouse, by an individual similarly situated to a
spouse of the person under the domestic or
family violence laws of the jurisdiction where
the offense occurs, or by any other individual
against a person who is protected from that in-
dividual’s acts under the domestic or family vio-
lence laws of the United States or any State,
Indian Tribal government, or unit of local gov-
ernment.

(d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
MINORS.—An alien who is 18 years of age or younger and
meets the requirements under subparagraphs (A), (B),
and (C) of subsection (b)(1) shall be provided a reasonable
opportunity to meet the educational requirements under
subparagraph (D) of such subsection. The Attorney Gen-
eral or the Secretary may not commence or continue with
removal proceedings against such an alien.

(e) WITHDRAWAL OF APPLICATION.—The Secretary
shall, upon receipt of a request to withdraw an application
for adjustment of status under this section, cease proc-
essing of the application, and close the case. Withdrawal
of the application under this subsection shall not prejudice
any future application filed by the applicant for any immi-
313

Sections:

111

(1) valid for a period of 10 years, unless such period is extended by the Secretary; and

222

(2) subject to revocation under subsection (c).

333

(b) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this title and the requirements to have the conditional basis of such status removed.

444

(c) REVOCATION OF STATUS.—The Secretary may revoke the permanent resident status on a conditional basis of an alien only if the Secretary—

555

(1) determines that the alien ceases to meet the requirements under section 21002(b)(1)(C); and

666

(2) prior to the revocation, provides the alien—

777

(A) notice of the proposed revocation; and

888

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise to contest the proposed revocation.
(d) **RETURN TO PREVIOUS IMMIGRATION STATUS.**—

An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is revoked under subsection (c), shall return to the immigration status that the alien had immediately before receiving permanent resident status on a conditional basis.

**SEC. 21004. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.**

(a) **ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary shall remove the conditional basis of an alien’s permanent resident status granted under this title and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in section 21002(b)(1)(C);

(B) has not abandoned the alien’s residence in the United States during the period in which the alien has permanent resident status on a conditional basis; and

(C)(i) has obtained a degree from an institution of higher education or a recognized post-secondary credential from an area career and technical education school providing education at the postsecondary level;
(ii) has served in the Uniformed Services for at least 3 years and, if discharged, received an honorable discharge; or

(iii) demonstrates earned income for periods totaling at least 4 years and at least 75 percent of the time that the alien has had a valid employment authorization.

(2) HARDSHIP EXCEPTION.—The Secretary shall remove the conditional basis of an alien’s permanent resident status and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(B) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(C) demonstrates that—

(i) the alien has a disability;

(ii) the alien is a full-time caregiver;

or

(iii) the removal of the alien from the United States would result in hardship to the alien or the alien’s spouse, parent, or child who is a national of the United
States or is lawfully admitted for permanent residence.

(3) Citizenship Requirement.—

(A) In General.—Except as provided in subparagraph (B), the conditional basis of an alien’s permanent resident status granted under this title may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 3112(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) Exception.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under such section 23012(a) due to disability.

(4) Application Fee.—The Secretary may, subject to an exemption under section 23003(c), require aliens applying for removal of the conditional basis of an alien’s permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(5) Background Checks.—The Secretary may not remove the conditional basis of an alien’s permanent resident status until the requirements of section 23002 are satisfied.
(b) Treatment for Purposes of Naturalization.—

(1) In General.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and be present in the United States, as an alien lawfully admitted for permanent residence.

(2) Limitation on Application for Naturalization.—An alien may not apply for naturalization while the alien is in permanent resident status on a conditional basis.

(c) Timing of Approval of Lawful Permanent Resident Status.—

(1) In General.—An alien granted permanent resident status on a conditional basis under this title may apply to have such conditional basis removed at any time after such alien has met the eligibility requirements set forth in subsection (a).

(2) Approval with regard to initial applications.—

(A) In General.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an
alien lawfully admitted for permanent resident status without conditional basis, any alien who—

(i) demonstrates eligibility for lawful permanent residence status on a conditional basis under section 21002(b); and

(ii) subject to the exceptions described in subsections (a)(2) and (a)(3)(B) of this section, already has fulfilled the requirements of paragraphs (1) and (3) of subsection (a) of this section at the time such alien first submits an application for benefits under this title.

(B) BACKGROUND CHECKS.—Subsection (a)(5) shall apply to an alien seeking lawful permanent resident status without conditional basis in an initial application in the same manner as it applies to an alien seeking removal of the conditional basis of an alien’s permanent resident status. Section 21002(b)(4) shall not be construed to require the Secretary to conduct more than one identical security or law enforcement background check on such an alien.

(C) APPLICATION FEES.—In the case of an alien seeking lawful permanent resident status
without conditional basis in an initial applica-
tion, the alien shall pay the fee required under
subsection (a)(4), subject to the exemption al-
lowed under section 23003, but shall not be re-
quired to pay the application fee under section
21002(b)(3).

SEC. 21005. RESTORATION OF STATE OPTION TO DETER-
MINE RESIDENCY FOR PURPOSES OF HIGHER
EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immi-
gration Reform and Immigrant Responsibility Act of 1996
(8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection
(a) shall take effect as if included in the original enact-
ment of the Illegal Immigration Reform and Immigrant
Responsibility Act of 1996 (division C of Public Law 104–

TITLE II—AMERICAN PROMISE
ACT

SEC. 22001. SHORT TITLE.

This title may be cited as the “American Promise
Act”.

SEC. 22002. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b) if the alien—

(1) applies for such adjustment, including submitting any required documents under section 23007, not later than 5 years after the date of the enactment of this Act;

(2) has been continuously physically present in the United States for a period of not less than 3 years after the date of enactment of this Act; and

(3) subject to subsection (c), is not inadmissible under paragraph (1), (2), (3), (6)(D), (6)(E), (6)(F), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—An alien shall be eligible for adjustment of status under this section if the alien is an individual who—

(1) is a national of a foreign state (or part thereof) (or in the case of an alien having no nation-
ality, is a person who last habitually resided in such state) with a designation under subsection (b) of section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a(b)) as of March 8, 2021, who had or was otherwise eligible for temporary protected status on such date notwithstanding subsections (c)(1)(A)(iv) and (c)(3)(C) of such section; and

(2) has not engaged in conduct since such date that would render the alien ineligible for temporary protected status under section 244(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1245a(c)(2)).

(e) WAIVER OF GROUNDS OF INADMISSIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), with respect to any benefit under this title, and in addition to any waivers that are otherwise available, the Secretary may waive the grounds of inadmissibility under paragraph (1), subparagraphs (A), (C), and (D) of paragraph (2), subparagraphs (D) through (G) of paragraph (6), or paragraph (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.
(2) Exception.—The Secretary may not waive a ground described in paragraph (1) if such inadmissibility is based on a conviction or convictions, and such conviction or convictions would otherwise render the alien ineligible under section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)).

(d) Application.—

(1) Fee.—The Secretary shall, subject to an exemption under section 23003(c), require an alien applying for adjustment of status under this section to pay a reasonable fee that is commensurate with the cost of processing the application, but does not exceed $1,140.

(2) Background Checks.—The Secretary may not grant an alien permanent resident status on a conditional basis under this section until the requirements of section 23002 are satisfied.

(3) Withdrawal of Application.—The Secretary of Homeland Security shall, upon receipt of a request to withdraw an application for adjustment of status under this section, cease processing of the application and close the case. Withdrawal of the application under this subsection shall not prejudice any future application filed by the applicant for any
immigration benefit under this title or under the Im-
migration and Nationality Act (8 U.S.C. 1101 et
seq.).

SEC. 22003. CLARIFICATION.

Section 244(f)(4) of the Immigration and Nationality
Act (8 U.S.C. 1254a(f)(4)) is amended by inserting after
“considered” the following: “as having been inspected and
admitted into the United States, and”.

TITLE III—GENERAL
PROVISIONS

SEC. 23001. DEFINITIONS.

(a) IN GENERAL.—In this division:

(1) IN GENERAL.—Except as otherwise specifi-
cally provided, any term used in this division that is
used in the immigration laws shall have the meaning
given such term in the immigration laws.

(2) APPROPRIATE UNITED STATES DISTRICT
COURT.—The term “appropriate United States dis-
trict court” means the United States District Court
for the District of Columbia or the United States
district court with jurisdiction over the alien’s prin-
cipal place of residence.

(3) AREA CAREER AND TECHNICAL EDUCATION
SCHOOL.—The term “area career and technical edu-
cation school” has the meaning given such term in

(4) DACA.—The term “DACA” means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals policy announced by the Secretary of Homeland Security on June 15, 2012.

(5) DISABILITY.—The term “disability” has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(6) FEDERAL POVERTY LINE.—The term “Federal poverty line” has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(7) HIGH SCHOOL; SECONDARY SCHOOL.—The terms “high school” and “secondary school” have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).
(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education”—

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

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

(10) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term “recognized postsecondary credential” has the meaning given such term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(11) SECRETARY.—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Homeland Security.

(12) UNIFORMED SERVICES.—The term “Uniformed Services” has the meaning given the term “uniformed services” in section 101(a) of title 10, United States Code.

(b) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of adjustment of status under this division, the terms “convicted” and “conviction”, as used in this division and in sections 212 and 244 of the Immigration and Nationality Act (8 U.S.C. 1182, 1254a), do not include
a judgment that has been expunged or set aside, that re-
sulted in a rehabilitative disposition, or the equivalent.

SEC. 23002. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC

DATA; BACKGROUND CHECKS.

(a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC

DATA.—The Secretary may not grant an alien adjustment
of status under this division, on either a conditional or
permanent basis, unless the alien submits biometric and
biographic data, in accordance with procedures established
by the Secretary. The Secretary shall provide an alter-
native procedure for aliens who are unable to provide such
biometric or biographic data because of a physical impair-
ment.

(b) BACKGROUND CHECKS.—The Secretary shall use
biometric, biographic, and other data that the Secretary
determines appropriate to conduct security and law en-
forcement background checks and to determine whether
there is any criminal, national security, or other factor
that would render the alien ineligible for adjustment of
status under this division, on either a conditional or per-
manent basis. The status of an alien may not be adjusted,
on either a conditional or permanent basis, unless security
and law enforcement background checks are completed to
the satisfaction of the Secretary.
SEC. 23003. LIMITATION ON REMOVAL; APPLICATION AND FEE EXEMPTION; AND OTHER CONDITIONS ON ELIGIBLE INDIVIDUALS.

(a) LIMITATION ON REMOVAL.—An alien who appears to be prima facie eligible for relief under this division shall be given a reasonable opportunity to apply for such relief and may not be removed until, subject to section 23006(c)(2), a final decision establishing ineligibility for relief is rendered.

(b) APPLICATION.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for adjustment of status under this division. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(e) FEE EXEMPTION.—An applicant may be exempted from paying an application fee required under this division if the applicant—
(1) is 18 years of age or younger;

(2) received total income, during the 12-month period immediately preceding the date on which the applicant files an application under this division, that is less than 150 percent of the Federal poverty line;

(3) is in foster care or otherwise lacks any parental or other familial support; or

(4) cannot care for himself or herself because of a serious, chronic disability.

(d) ADVANCE PAROLE.—During the period beginning on the date on which an alien applies for adjustment of status under this division and ending on the date on which the Secretary makes a final decision regarding such application, the alien shall be eligible to apply for advance parole. Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted advance parole under this Act.

(e) EMPLOYMENT.—An alien whose removal is stayed pursuant to this division, who may not be placed in removal proceedings pursuant to this division, or who has pending an application under this division, shall, upon application to the Secretary, be granted an employment authorization document.
SEC. 23004. DETERMINATION OF CONTINUOUS PRESENCE AND RESIDENCE.

(a) Effect of Notice To Appear.—Any period of continuous physical presence or continuous residence in the United States of an alien who applies for permanent resident status under this division (whether on a conditional basis or without the conditional basis as provided in section 21004(c)(2)) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) Treatment of Certain Breaks in Presence or Residence.—

(1) In general.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain—

(A) continuous physical presence in the United States under this division if the alien has departed from the United States for any period exceeding 90 days or for any periods, in the aggregate, exceeding 180 days; and

(B) continuous residence in the United States under this division if the alien has departed from the United States for any period exceeding 180 days, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that the alien did not in fact
abandon residence in the United States during such period.

(2) Extensions for Extenuating Circumstances.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien’s control, including—

(A) the serious illness of the alien;

(B) death or serious illness of a parent, grandparent, sibling, or child of the alien;

(C) processing delays associated with the application process for a visa or other travel document; or

(D) restrictions on international travel due to the public health emergency declared by the Secretary of Health and Human Services under section 3119 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19.

(3) Travel Authorized by the Secretary.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under paragraph (1).
(c) Waiver of Physical Presence.—With respect to aliens who were removed or departed the United States on or after January 20, 2017, and who were continuously physically present in the United States for at least 5 years prior to such removal or departure, the Secretary may, as a matter of discretion, waive the physical presence requirement under section 21002(b)(1)(A) or section 22002(a)(2) for humanitarian purposes, for family unity, or because a waiver is otherwise in the public interest. The Secretary, in consultation with the Secretary of State, shall establish a procedure for such aliens to apply for relief under section 21002 or 22002 from outside the United States if they would have been eligible for relief under such section, but for their removal or departure.

SEC. 23005. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this division or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status under this division (whether on a conditional basis, or without the conditional basis as provided in section 21004(c)(2)).

SEC. 23006. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review.—Not later than 30 days after the date of the enactment of this Act, the Sec-
retary shall provide to aliens who have applied for adjustment of status under this division a process by which an applicant may seek administrative appellate review of a denial of an application for adjustment of status, or a revocation of such status.

(b) **JUDICIAL REVIEW.**—Except as provided in subsection (c), and notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status, or a revocation of such status, under this division in an appropriate United States district court.

(c) **STAY OF REMOVAL.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this division may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) **EXCEPTION.**—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds described in this division. Such removal shall not affect the alien’s right to judicial review under this division. The Secretary shall promptly return a removed alien if a decision to
deny an application for adjustment of status under this division, or to revoke such status, is reversed.

SEC. 23007. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—An alien’s application for permanent resident status under this division (whether on a conditional basis, or without the conditional basis as provided in section 21004(c)(2)) may include, as evidence of identity, the following:

(1) A passport or national identity document from the alien’s country of origin that includes the alien’s name and the alien’s photograph or fingerprint.

(2) The alien’s birth certificate and an identity card that includes the alien’s name and photograph.

(3) A school identification card that includes the alien’s name and photograph, and school records showing the alien’s name and that the alien is or was enrolled at the school.

(4) A Uniformed Services identification card issued by the Department of Defense.

(5) Any immigration or other document issued by the United States Government bearing the alien’s name and photograph.

(6) A State-issued identification card bearing the alien’s name and photograph.
(7) Any other evidence determined to be credible by the Secretary.

(b) DOCUMENTS ESTABLISHING ENTRY, CONTINUOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF RESIDENCE.—To establish that an alien was 18 years of age or younger on the date on which the alien entered the United States, and has continuously resided in the United States since such entry, as required under section 21002(b)(1)(B), that an alien has been continuously physically present in the United States, as required under section 21002(b)(1)(A) or 202(a)(2), or that an alien has not abandoned residence in the United States, as required under section 21004(a)(1)(B), the alien may submit the following forms of evidence:

(1) Passport entries, including admission stamps on the alien’s passport.

(2) Any document from the Department of Justice or the Department of Homeland Security noting the alien’s date of entry into the United States.

(3) Records from any educational institution the alien has attended in the United States.

(4) Employment records of the alien that include the employer’s name and contact information, or other records demonstrating earned income.
(5) Records of service from the Uniformed Services.

(6) Official records from a religious entity confirming the alien’s participation in a religious ceremony.

(7) A birth certificate for a child who was born in the United States.

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

(10) Deeds, mortgages, or rental agreement contracts.

(11) Rent receipts or utility bills bearing the alien’s name or the name of an immediate family member of the alien, and the alien’s address.

(12) Tax receipts.

(13) Insurance policies.

(14) Remittance records, including copies of money order receipts sent in or out of the country.

(15) Travel records.

(16) Dated bank transactions.

(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct
knowledge of the alien’s continuous physical presence in the United States, that contain—

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

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

(18) Any other evidence determined to be credible by the Secretary.

(e) Documents Establishing Admission to an Institution of Higher Education.—To establish that an alien has been admitted to an institution of higher education, the alien may submit to the Secretary a document from the institution of higher education certifying that the alien—

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

(d) Documents Establishing Receipt of a Degree From an Institution of Higher Education.—

To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien may submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.
(e) Documents Establishing Receipt of a High School Diploma, General Educational Development Credential, or a Recognized Equivalent.— To establish that in the United States an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, has obtained the General Education Development credential, or otherwise has satisfied section 21002(b)(1)(D)(iii), the alien may submit to the Secretary the following:

1. A high school diploma, certificate of completion, or other alternate award.
2. A high school equivalency diploma or certificate recognized under State law.
3. Evidence that the alien passed a State-authorized exam, including the General Education Development test, in the United States.
4. Evidence that the alien successfully completed an area career and technical education program, such as a certification, certificate, or similar alternate award.
5. Evidence that the alien obtained a recognized postsecondary credential.
6. Any other evidence determined to be credible by the Secretary.
(f) Documents Establishing Enrollment in an Educational Program.—To establish that an alien is enrolled in any school or education program described in section 21002(b)(1)(D)(iv) or 21004(a)(1)(C), the alien may submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien’s name, periods of attendance, and current grade or educational level.

(g) Documents Establishing Exemption From Application Fees.—To establish that an alien is exempt from an application fee under this division, the alien may submit to the Secretary the following relevant documents:

(1) Documents to Establish Age.—To establish that an alien meets an age requirement, the alien may provide proof of identity, as described in subsection (a), that establishes that the alien is 18 years of age or younger.

(2) Documents to Establish Income.—To establish the alien’s income, the alien may provide—

(A) employment records or other records of earned income, including records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;
(B) bank records; or

(C) at least two sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—

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

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

(3) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien is in foster care, lacks parental or familial support, or has a serious, chronic disability, the alien may provide at least two sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that contain—

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

(B) the name, address, and telephone number of the affiant; and
(C) the nature and duration of the relationship between the affiant and the alien.

(h) DOCUMENTS ESTABLISHING QUALIFICATION FOR HARDSHIP EXEMPTION.—To establish that an alien satisfies one of the criteria for the hardship exemption set forth in section 21004(a)(2)(C), the alien may submit to the Secretary at least two sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

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

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

(i) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien may submit to the Secretary—

(1) a Department of Defense form DD–214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or
(4) health records from the appropriate Uniformed Service.

(j) DOCUMENTS ESTABLISHING EARNED INCOME.—

(1) IN GENERAL.—An alien may satisfy the earned income requirement under section 21004(a)(1)(C)(iii) by submitting records that—

(A) establish compliance with such requirement; and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(2) OTHER DOCUMENTS.—An alien who is unable to submit the records described in paragraph (1) may satisfy the earned income requirement by submitting at least two types of reliable documents that provide evidence of employment or other forms of earned income, including—

(A) bank records;

(B) business records;

(C) employer or contractor records;

(D) records of a labor union, day labor center, or organization that assists workers in employment;
(E) sworn affidavits from individuals who
are not related to the alien and who have direct
knowledge of the alien’s work, that contain—

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

(ii) the nature and duration of the re-
relationship between the affiant and the
alien;

(F) remittance records; or

(G) any other evidence determined to be
credible by the Secretary.

(k) Authority To Prohibit Use Of Certain
Documents.—If the Secretary determines, after publica-
tion in the Federal Register and an opportunity for public
comment, that any document or class of documents does
not reliably establish identity or that permanent resident
status under this division (whether on a conditional basis,
or without the conditional basis as provided in section
21004(c)(2)) is being obtained fraudulently to an unac-
ceptable degree, the Secretary may prohibit or restrict the
use of such document or class of documents.

SEC. 23008. RULE MAKING.

(a) In General.—Not later than 90 days after the
date of the enactment of this Act, the Secretary shall pub-
lish in the Federal Register interim final rules imple-
menting this division, which shall allow eligible individuals
to immediately apply for relief under this division. Not-
withstanding section 553 of title 5, United States Code,
the regulation shall be effective, on an interim basis, im-
mediately upon publication, but may be subject to change
and revision after public notice and opportunity for a pe-
riod of public comment. The Secretary shall finalize such
rules not later than 180 days after the date of publication.

(b) Paperwork Reduction Act.—The require-
ments under chapter 35 of title 44, United States Code
(commonly known as the “Paperwork Reduction Act”),
shall not apply to any action to implement this Act.

SEC. 23009. CONFIDENTIALITY OF INFORMATION.

(a) In General.—The Secretary may not disclose
or use information (including information provided during
administrative or judicial review) provided in applications
filed under this division or in requests for DACA for the
purpose of immigration enforcement.

(b) Referrals Prohibited.—The Secretary, based
solely on information provided in an application for adjust-
ment of status under this division (including information
provided during administrative or judicial review) or an
application for DACA, may not refer an applicant to U.S.
Immigration and Customs Enforcement, U.S. Customs
and Border Protection, or any designee of either such entity.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for adjustment of status under this division may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this division;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony offense not related to immigration status.

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 23010. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary shall establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this division by providing them with the services described in subsection (b).
(b) USE OF FUNDS.—Grant funds awarded under this section shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status under this division (whether on a conditional basis, or without the conditional basis as provided in section 21004(c)(2)), particularly to individuals potentially eligible for such status;

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for adjustment of status under this division (whether on a conditional basis, or without the conditional basis as provided in section 21004(c)(2)), including—

(A) screening prospective applicants to assess their eligibility for such status;

(B) completing applications and petitions, including providing assistance in obtaining the requisite documents and supporting evidence; and

(C) providing any other assistance that the Secretary or grantee considers useful or necessary to apply for adjustment of status under this division (whether on a conditional basis, or
without the conditional basis as provided in section 21004(e)(2)); and

(3) assistance, within the scope of authorized practice of immigration law, and instruction, to individuals—

(A) on the rights and responsibilities of United States citizenship;

(B) in civics and English as a second language;

(C) in preparation for the General Education Development test; and

(D) in applying for adjustment of status and United States citizenship.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AMOUNTS AUTHORIZED.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2024 through 2034 to carry out this section.

(2) AVAILABILITY.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 23011. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUSTMENT OF STATUS.

An alien’s eligibility to be lawfully admitted for permanent residence under this division (whether on a condi-
tional basis, or without the conditional basis as provided in section 21004(c)(2)) shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

SEC. 23012. SUPPLEMENTARY SURCHARGE FOR APPOINTED COUNSEL.

(a) IN GENERAL.—Except as provided in section 23002 and in cases where the applicant is exempt from paying a fee under section 23003(c), in any case in which a fee is charged pursuant to this division, an additional surcharge of $25 shall be imposed and collected for the purpose of providing appointed counsel to applicants seeking judicial review of the Secretary’s decision to provisionally deny an application under this Act.

(b) IMMIGRATION COUNSEL ACCOUNT.—There is established in the general fund of the Treasury a separate account which shall be known as the “Immigration Counsel Account”. Fees collected under subsection (a) shall be deposited into the Immigration Counsel Account and shall remain available until expended for purposes of providing appointed counsel as required under this Act.

(c) REPORT.—At the end of each 2-year period, beginning with the establishment of this account, the Secretary of Homeland Security shall submit a report to the Congress concerning the status of the account, including
any balances therein, and recommend any adjustment in
the prescribed fee that may be required to ensure that the
receipts collected from the fee charged for the succeeding
2 years equal, as closely as possible, the cost of providing
appointed counsel as required under this Act.

SEC. 23013. ANNUAL REPORT ON PROVISIONAL DENIAL AU-
THORITY.

Not later than 1 year after the date of the enactment
of this Act, and annually thereafter, the Secretary of
Homeland Security shall submit to the Congress a report
detailing the number of applicants that receive—
(1) a provisional denial under this division;
(2) a final denial under this division without
seeking judicial review;
(3) a final denial under this division after seek-
ing judicial review; and
(4) an approval under this division after seek-
ing judicial review.

TITLE IV—DIGNITY AND
REDEMPTION PROGRAMS
Subtitle A—Dignity Program

SEC. 24001. ESTABLISHMENT.
(a) In General.—There is established a program,
to be known as the “Dignity Program” under this subtitle,
which shall provide for deferred action on removal and the
provision of employment and travel authorization in the case of eligible applicants, in accordance with the provisions of this subtitle.

(b) **ABOLITION OF 3- AND 10-YEAR BARS.**—For purposes of this subtitle, section 212(a)(9) of the Immigration and Nationality Act shall not apply for purposes of any person who applies and thereafter participates in the Dignity Program.

SEC. 24002. **ELIGIBILITY.**

The Secretary of Homeland Security shall approve an application to participate in the Dignity Program from an eligible alien subject to the following:

(1) **APPLICATION.**—The applicant shall submit such information that the Secretary determines sufficient to prove the following:

(A) That the alien has been continually physically present in the United States at least 5 years prior to the enactment of this Act.

(B) That the alien is not inadmissible under section 212(a) of the Immigration and Nationality Act (except that paragraph (9) shall not apply for purposes of this section).

(C) That the alien has included a restitution payment of at least $1,000, to be deposited in the H–1B Nonimmigrant Petitioner Account,
which shall be used to support American workers for purposes described in subtitle C of title IV of division B.

(2) Submission of biometric and biographic data; background checks.—

(A) Submission of biometric and biographic data.—The Secretary may not approve such an application, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(B) Background checks.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for participation in the Dignity Program in accordance with paragraph (3). The application for participation in the Dignity Program may not be approved unless security and law enforce-
ment background checks are completed to the satisfaction of the Secretary.

(3) GROUNDS OF INELIGIBILITY.—Except as provided in paragraph (2), an alien is ineligible for participation in the Dignity Program if, excluding any offense under State law for which an essential element is the alien’s immigration status, and any minor traffic offense, the alien has been convicted of—

(A) any felony offense;

(B) two or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, and any offense involving civil disobedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(C) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(i) a victim of domestic violence, sexual assault, stalking, child abuse or ne-
glect, abuse or neglect in later life, or

human trafficking;

(ii) battered or subjected to extreme
cruelty; or

(iii) a victim of criminal activity de-
dscribed in section 101(a)(15)(U)(iii) of the
Immigration and Nationality Act (8 U.S.C.
1101(a)(15)(U)(iii)).

(4) WAIVERS FOR CERTAIN MISDEMEANORS.—
For humanitarian purposes, family unity, or if oth-
erwise in the public interest, the Secretary may
waive—

(A) the grounds of inadmissibility under
subparagraphs (A), (C), and (D) of section
212(a)(2) of the Immigration and Nationality
Act (8 U.S.C. 1182(a)(2)); and

(B) consideration of—

(i) one misdemeanor offense if the
alien has not been convicted of any offense
in the 5-year period preceding the date on
which the alien applies for adjustment of
status; or

(ii) up to two misdemeanor offenses if
the alien has not been convicted of any of-
fense in the 10-year period preceding the
date on which the alien applies for adjustment of status.

SEC. 24003. REGISTRATION; DEPARTURE.

(a) Registration.—Any alien approved to participate in the Dignity Program shall—

(1) register with the Secretary of Homeland Security;

(2) submit biometric and biographic data to the Secretary; and

(3) submit a sworn declaration stipulating to presence in the United States without a lawful immigration status, and, as appropriate, unlawful presence, in the United States.

(b) Departure.—Not later than 24 months after the date of the enactment of this Act, any alien present in the United States without lawful status under the immigration laws, or not participating in the programs outlined in division B or seeking Certified Agricultural Worker status under this Act shall apply for the Dignity Program or depart the United States.

(c) Intentional Self-Deportation.—Any alien that voluntarily departs the United States not later than 24 months after the date of the enactment of this Act shall not be subject to the provisions of section 212(a)(9) of the Immigration and Nationality Act with respect to—
(1) any removal ordered under section 235(b)(1) of such Act or at the end of proceedings under section 240 of such Act initiated upon the alien’s arrival in the United States; or

(2) any removal ordered under section 240 of such Act, prior to the date of the enactment of this Act.

(d) LIMITATION ON REMOVAL.—An alien who appears to be prima facie eligible for status under this subtitle during the 24-month period following the date of enactment of this Act may not be removed or fined based on their immigration status—

(1) during such period; and

(2) in the case that the alien applies for status under this subtitle, until a final decision establishing ineligibility for such status is rendered.

(e) EXCEPTION.—This section does not apply in the case of any alien with a valid Notice to Appear in immigration court or with a pending determination on their immigration status that is not decided before this date.

SEC. 24004. PROGRAM PARTICIPATION.

(a) IN GENERAL.—Any applicant who is approved to participate in the Dignity Program shall make an appointment with USCIS who shall issue an order deferring further action for a period of 7 years.
(b) CONDITIONS.—Each participant in the Dignity Program shall conform to the following:

(1) REPORT.—The participant shall biennially report to the Secretary of Homeland Security and provide the following information:

(A) Place of residence.

(B) Testimony as to good standing within the community.

(2) RESTITUTION.—

(A) IN GENERAL.—The participant shall pay an additional fee of at least $1,000 with each report under paragraph (1), until a total amount of $5,000 has been paid, to be deposited in the H–1B Nonimmigrant Petitioner Account, which shall be used to support American workers for purposes described in subtitle C of title IV of division B.

(B) LIMITATION IN THE CASE OF MINORS.—Subparagraph (A) shall not apply with respect to any participant in the Dignity Program who is under 18 years of age.

(3) LAWFUL CONDUCT.—The participant shall comply with all Federal and State laws.

(4) EMPLOYMENT.—The participant shall remain, for a period of not less than 4 years during
their participation in the Dignity Program, employed
(including self-employment and serving as a care-
giver) or enrolled in a course of study at an institute
of higher education, as defined in section 102 of the
Higher Education Act of 1965 (20 U.S.C. 1002), or
an area career and technical education school, as de-
finite in section 3 of the Carl D. Perkins Career and
The Secretary may waive the application of this
paragraph in the case of any alien with dependents
under the age of 12, any alien the Secretary deter-
mines would be unable to reasonably comply by rea-
son of a disability or other impediment, or anyone
above 65 years of age.

(5) **TAXES.**—The participant shall pay any ap-
plicable taxes and satisfy any tax obligations out-
standing within 10 years of the date of application
approval.

(6) **SUPPORT DEPENDENTS.**—The participant
shall support any dependents including by providing
food, shelter, clothing, education, and covering basic
medical needs.

(7) **MEDICAL COSTS.**—

(A) **IN GENERAL.**—The participant shall
be enrolled under qualifying health coverage.
(B) Definition.—For purposes of this paragraph, the term “qualifying health coverage” means, with respect to the participant, the higher of the following levels of coverage applicable to such alien:

   (i) At a minimum, catastrophic health insurance coverage that provides coverage of such individual with respect to at least the State of employment and State of residence of the alien.

   (ii) In the case of an alien whose State of residence or State of employment requires such an alien to maintain coverage under health insurance, such health insurance.

(8) Public Benefits.—Beginning on the date of participation in the Dignity Program, the participant shall not avail himself or herself of any Federal means-tested benefits or entitlement programs. For purposes of this paragraph, any benefits received by a child or dependent that is a United States citizen living in the same household shall not be taken into account.

(9) Levy.—In addition to other taxes, there is hereby imposed on the income of every participant a
tax equal to 1.5 percent of the adjusted gross income (as defined in section 3121(a) of the Internal Revenue Code of 1986) received by the individual with respect to employment (as defined in section 3121(b) the Internal Revenue Code of 1986). The participant shall comply with the requirements of section 9512 of the Internal Revenue Code of 1986. Any tax collected under this paragraph shall be deposited in the Immigration Infrastructure Fund established in section 1213.

(10) EXEMPTION FROM CERTAIN PAYROLL TAXES.—A participant shall not be liable for any tax under section 3101 or 3102 of the Internal Revenue Code of 1986.

(c) AUTHORIZING PARTICIPANTS APPROVED TO PARTICIPATE IN THE DIGNITY PROGRAM TO ENLIST IN THE ARMED FORCES.—

(1) WAIVER.—Under this provision, for any individual in the Dignity program that enlists in the armed forces, the conditions outlined in subsection (b) shall be waived during their service.

(2) COMPLETION OF TERM OF ENLISTMENT.—Upon completion of a term of enlistment, the requirements of the Dignity Program shall be satisfied for that individual, and that individual shall be eli-
ble to adjust to lawful permanent resident status through the armed forces.

(d) VIOLATIONS.—If a participant violates a condition under subsection (b), the Secretary may at the Secretary’s discretion, waive enforcement of minor violations including late fees, take extenuating circumstances into effect, or consider factors of undue hardship, but in all other cases, the Secretary shall initiate removal proceedings. In such proceedings, the immigration judge may make a determination as to whether to order removal or to issue an order modifying the conditions of that participant’s participation in the Dignity Program.

SEC. 24005. COMPLETION.

(a) IN GENERAL.—Upon satisfying the conditions set forth in subsection (b) and thereby successfully completing the Dignity Program, the participant may choose—

(1) to receive Dignity status under this section;

or

(2) to register for the Redemption Program under subtitle B.

(b) COMPLETION.—The conditions set forth in this subsection for successful completion of the Dignity Program are as follows:

(1) Compliance with all requirements of subsection (b)(1).
(2) Compliance with all requirements of subsection (b)(2).

(3) Compliance with the requirement of subsection (b)(3) for the entire period of the participation in the Dignity Program.

(c) DIGNITY STATUS.—The status under this section—

(1) shall be valid for a period of 5 years;

(2) may be renewed any number of times; and

(3) shall provide the alien with—

(A) lawful status as a nonimmigrant;

(B) authorization for employment; and

(C) the ability to reenter the United States any number of times.

(d) REDEMPTION PROGRAM.—Upon completion of the requirements of the Dignity Program, an applicant may choose to register for the Redemption Program under subtitle B.

Subtitle B—Redemption Program

SEC. 24101. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a program, to be known as the “Redemption Program”, under which eligible applicants may acquire conditional redemption status, and shall be authorized to apply for lawful permanent residency under the immigration laws in ac-
cordance with section 24103. Such status shall be valid for a period of 5 years, and may be renewed any number of times.

(b) ELIGIBILITY.—To be eligible to apply under the Redemption Program, an applicant shall be an alien who has successfully completed the Dignity Program under subtitle A.

(c) STATUS.—In the case of an alien who is an eligible applicant granted conditional redemption status under this section, the alien—

(1) may not be removed or return the alien to the alien’s country of nationality or, in the case of a person having no nationality, the country of the alien’s last habitual residence;

(2) shall be authorized to engage in employment in the United States and be provided with appropriate endorsement of that authorization; and

(3) may be allowed to travel abroad.

(d) CONDITIONALITY.—Conditional redemption status does not convey a right to remain permanently in the United States, and may be terminated if it is determined that the alien has violated any condition set forth under section 24102.
SEC. 24102. CONDITIONS.

(a) IN GENERAL.—An alien receiving conditional status under section 24101 shall comply with the following:

(1) The alien shall report to the Secretary of Homeland Security biennially.

(2) The alien shall maintain an accurate record with the Secretary of the following:

(A) The alien’s place of residence.

(B) Testimony regarding good standing within the community.

(3) The alien shall complete either of the following:

(A) Payment of additional fees of at least $2,000 upon each report under paragraph (1), until a total of $5,000 has been paid; or

(B) Certification that the alien has completed such community service requirement as the Secretary may establish, consistent with the following:

(i) Not less than 200 hours of community service shall be required.

(ii) The community service may be completed with the National Service Corps or with other, local community service providers, as the Secretary determines appropriate.
(4) The alien has learned English.

(5) The alien has learned United States civics.

(b) WAIVER.—The Secretary of Homeland Security may waive paragraph (4) or (5) of subsection (a) in the case of an alien who is 65 years of age or older.

SEC. 24103. COMPLETION AND REMOVAL OF CONDITIONAL STATUS.

If an alien maintains and completes the requirements of this section, after a period of 4 years beginning on the date that the alien’s application for participation in the Redemption Program is approved, and subject to sections 1181 and 1515 of Division A of this Act, the Secretary may adjust the status of the alien to that of a lawful permanent resident, except that the alien’s status granted under section 24101 may not be extended unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

Subtitle C—Contribution to American Workers

SEC. 24200. PURPOSE.

This subtitle shall direct restitution payments from the Dignity and Redemption programs to be disbursed to American workers through promoting apprenticeships and other work-based learning programs for small and me-
medium-sized businesses within in-demand industry sectors,
through the establishment and support of industry or sec-
tor partnerships.

SEC. 24201. AVAILABILITY OF FUNDS.

From funds paid by restitution under title IV of divi-
sion B of the Dignity for Immigrants while Guarding our
Nation to Ignite and Deliver the American Dream Act and
available under section 286(s)(2) of the Immigration and
Nationality Act (8 U.S.C. 1356(s)(2)), the Secretary shall
carry out this Act.

SEC. 24202. CONFORMING AMENDMENTS.

(a) American Competitiveness and Workforce
Improvement Act of 1998.—Section 414(c) of the
American Competitiveness and Workforce Improvement
Act of 1998 (29 U.S.C. 2916a) is repealed.

(b) Immigration and Nationality Act.—Section
286(s)(2) of the Immigration and Nationality Act (8
U.S.C. 1356(s)(2)) is amended to read as follows:

“(2) Use of fees for work-based learning
programs.—90 percent of amounts deposited into
the H–1B Nonimmigrant Petitioner Account pursu-
ant to the Dignity for Immigrants while Guarding
our Nation to Ignite and Deliver the American
Dream Act shall remain available to the Secretary of
Labor until expended to carry out the Dignity for
Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act.”.

**PART 1—PROMOTING APPRENTICESHIPS THROUGH REGIONAL TRAINING NETWORKS**

**SEC. 24301. DEFINITIONS.**

In this Act:

1. **(1) ELIGIBLE PARTNERSHIP.**—The term “eligible partnership” means an industry or sector partnership as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102) that submits and obtains approval of an application consistent with section 5(e).

2. **(2) IN-DEMAND INDUSTRY SECTOR.**—The term “in-demand industry sector” means a sector described in subparagraphs (A)(i) and (B) of section 3(23) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(23)).

3. **(3) LOCAL OR REGIONAL.**—The term “local or regional”, used with respect to an entity, means that the entity provides services in, respectively, a local area or region.

4. **(4) WORKFORCE TERMS.**—The terms “Governor”, “individual with a barrier to employment”, “industry or sector partnership”, “local area”, “local board”, “State board”, “outlying area”, “recognized
postsecondary credential”, “region”, “State”, and
“supportive services”, used with respect to activities
supported under this Act, have the meanings given
the terms in section 3 of the Workforce Innovation

(5) SECRETARY.—The term “Secretary” means
the Secretary of Labor.

SEC. 24302. ALLOTMENTS TO STATES.

(a) RESERVATION.—Of the amounts available for this
Act under section 4, the Secretary may reserve—

(1) not more than 5 percent of those amounts
for the costs of technical assistance and Federal ad-
ministration of this Act;

(2) not more than 2 percent of those amounts
for the costs of evaluations conducted under section
8(b); and

(3) not more than 1/4 of 1 percent of such
amounts to provide assistance to the outlying areas.

(b) ALLOTMENTS.—

(1) IN GENERAL.—Of the amounts available for
this Act under section 4 that remain after the Sec-
retary makes the reservations under subsection (a),
the Secretary shall, for the purpose of supporting
(which may include assistance in establishing ex-
panded) local or regional eligible partnerships to
support work-based learning programs under this Act, make allotments to eligible States in accordance with clauses (ii) through (v) of section 132(b)(1)(B) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3162(b)(1)(C)), subject to paragraph (2).

(2) APPLICATION.—For purposes of applying the clauses described in paragraph (1), under paragraph (1), the Secretary—

(A) shall not apply subclauses (I) and (III) of clause (iv) with respect to the first fiscal year after the date of enactment of this Act;

(B) shall apply clause (iv)(II) by substituting “0.5 percent of the remaining amounts described in paragraph (1)” for the total described in that clause;

(C) shall not apply clause (iv)(IV);

(D) shall apply clause (v)(II) by substituting the term “allotment percentage”, used with respect to the second full fiscal year after the date of enactment of this Act, or a subsequent fiscal year, means a percentage of the remaining amounts described in paragraph (1) that is received through an allotment made
under this subsection for the fiscal year for the
two sentences in that clause; and

(E) shall apply clause (v)(III) by substi-
tuting “a work-based learning program car-
rried out under this Act” for “a program of
workforce investment activities carried out
under this subtitle”.

(3) USE OF UNALLOCATED FUNDS.—If a State
fails to meet the requirements for an allotment
under this subsection, the Secretary may allot funds
that are not allotted under paragraphs (1) and (2)
to eligible States under a formula based on the for-
mula specified in section 132(c) of the Workforce In-
novation and Opportunity Act (29 U.S.C. 3173(c)).

(4) DEFINITION.—In this subsection, the term
“eligible State” means a State that meets the re-
quirements of section 102 or 103 of the Workforce
Innovation and Opportunity Act (29 U.S.C. 3112,
3113) and subsection (c).

(c) STATE ELIGIBILITY.—To be eligible to receive an
allotment under subsection (b), a State, in consultation
with State boards and local boards, shall submit an appli-
cation to the Secretary, at such time, in such manner, and
containing a description of the activities to be carried out
with the grant funds. At a minimum, the application shall include information on—

(1) the local or regional industry or sector partnerships that will be supported, including the lead partners for the partnerships, and how the partnerships will work to engage small and medium-sized businesses, as applicable, in the activities of the partnerships;

(2) the in-demand industry sectors that will be served, including how such industry sectors were identified, and how the activities of the partnerships will align with State, regional, and local plans as required under title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111 et seq.);

(3) the apprenticeship programs or other work-based learning programs to be supported through the partnerships;

(4) the populations that will receive services, including individuals with barriers to employment and populations that were historically underrepresented in the industry sectors to be served through the partnerships;

(5) the services, including business engagement, classroom instruction, and support services (including at least 6 months of post-employment support
services), that will be supported through the grant funds;

(6) the recognized postsecondary credentials that workers will obtain through participation in the program and the quality of the program that leads to the credentials;

(7) levels of performance to be achieved on the performance indicators described in section 8, to measure progress towards expanding work-based learning programs;

(8) how local or regional partnerships will leverage additional resources, including funding provided under title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111 et seq.) and non-Federal resources, to support the activities carried out under this Act; and

(9) such other subjects as the Secretary may require.

(d) REVIEW OF APPLICATIONS.—The Secretary shall review applications submitted under subsection (c) in consultation with the Secretary of Education and the Secretary of Health and Human Services.

SEC. 24303. GRANTS TO PARTNERSHIPS.

(a) GRANTS.—
(1) IN GENERAL.—The Governor of a State that receives an allotment under section 5 shall use the funds made available through the allotment and not reserved under subsection (d) to award grants to eligible partnerships. The Governor shall award the grants for the purpose of assisting (which may include establishing or expanding) local or regional industry or sector partnerships that are identified in the application submitted under section 5(c), to carry out activities described in section 7.

(2) PERIOD OF GRANT.—A State may make a grant under this section for a period of 3 years.

(3) AVAILABILITY OF FUNDS.—The Governor of a State that receives an allotment under section 5 for a fiscal year may use the funds made available through the allotment during that year or the 2 subsequent fiscal years.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an industry or sector partnership described in subsection (a)(1) shall—

(1) submit an application to the State at such time, in such manner, and containing such information as the State may require; and
(2) designate a partner in the industry or sector partnership, to serve as the fiscal agent for purposes of the grant.

(c) AWARDS OF GRANTS.—

(1) PARTICIPATION IN MULTIPLE ELIGIBLE PARTNERSHIPS.—Subject to paragraph (2), a State may award grants under this section in a way that results in an entity being represented in more than one partnership that receives such a grant.

(2) GEOGRAPHIC DIVERSITY.—In making the grants, a State shall ensure that there is geographic diversity in the areas in which activities will be carried out under the grants.

(d) ADMINISTRATION.—The State may reserve not more than 5 percent of the amount of an allotment under section 5 for the administration of the grants awarded under this section.

SEC. 24304. USE OF FUNDS.

(a) IN GENERAL.—An eligible partnership that receives a grant under section 6 shall use the grant funds to support apprenticeships or other work-based learning programs. The eligible partnership shall use the grant funds to support the activities described in subsections (b) and (c) and such other strategies as may be necessary to support the development and implementation of work-
based learning programs, and participant retention in and completion of those programs. The partnership may use the grant funds to establish or expand eligible partnerships.

(b) BUSINESS ENGAGEMENT.—The eligible partnership shall use grant funds to provide services to engage businesses in work-based learning programs, which may include assisting a small or medium-sized business with—

(1) the navigation of the registration process for a sponsor of an apprenticeship program;

(2) the connection of the business with an education provider to develop classroom instruction to complement on-the-job learning;

(3) the development of a curriculum for a work-based learning program;

(4) the employment of workers in a work-based learning program for a transitional period before the business hires an individual for continuing employment;

(5) the provision of training to managers and front-line workers to serve as trainers or mentors to workers in the work-based learning program;

(6) the provision of career awareness activities; and
(7) the recruitment of individuals to participate in a work-based learning program from individuals receiving additional workforce and human services, including—

(A) workers in programs under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.);

(B) recipients of assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); and

(C) recipients of assistance through the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(c) **Support Services for Workers.**—

(1) **In General.**—The eligible partnership shall use grant funds to provide support services for workers to assure their success in work-based learning programs, which may include—

(A) connection of individuals with adult basic education during pre-work-based learning or training, and during the period of employment;
(B) connection of individuals with pre-
work-based learning or training, including
through a pre-apprenticeship program;

(C) provision of additional mentorship and
retention supports for individuals pre-work-
based learning or training, and during the pe-
period of employment;

(D) provision of tools, work attire, and
other required items necessary to start employ-
ment pre-work-based learning or training, and
during the period of employment; and

(E) provision of transportation, child care
services, or other support services pre-work-
based learning or training, and during the pe-
period of employment.

(2) LENGTH OF SERVICES.—Each eligible part-
nership shall provide support services for workers for
not less than 12 months after the date of placement
of an individual in a work-based learning program.
That 12-month period shall include a period of pre-
work-based learning or training, a transitional pe-
period of employment as described in subsection
(b)(4), and a period of continuing employment.
SEC. 24305. PERFORMANCE AND ACCOUNTABILITY.

(a) LOCAL REPORTS.—Not later than 1 year after receiving a grant under section 6, and annually thereafter, each eligible partnership in a State shall conduct an evaluation and submit to the State a local report containing information on—

1. levels of performance achieved by the eligible partnership with respect to the performance indicators under section 116(b)(2)(A) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3141(b)(2)(A))—
   (A) for all workers in the work-based learning program involved; and
   (B) for all such workers, disaggregated by each population specified in section 3(24) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24)) and by race, ethnicity, sex, and age; and

2. levels of performance achieved by the eligible partnership with respect to the performance indicators under that section 116(b)(2)(A)—
   (A) for individuals with barriers to employment in the work-based learning program involved; and
   (B) for all such individuals, disaggregated by each population specified in section 3(24) of
the Workforce Innovation and Opportunity Act
and by race, ethnicity, sex, and age.

(b) State Reports.—Not later than 24 months
after receiving initial local reports under subsection (a)
but in no case less than 18 months after the cor-
responding grants are awarded) and annually thereafter,
the State shall conduct an evaluation and submit a report
to the Secretary containing—

(1) the information provided by the eligible
partnerships through the local reports; and

(2) the State level of performance, aggregated
across all eligible partnerships, with respect to the
performance indicators described in subsection (a).

PART 2—HIGH-DEMAND CAREERS

SEC. 24401. GRANTS FOR ACCESS TO HIGH-DEMAND CA-
REERS.

(a) Purpose.—The purpose of this section is to ex-
pend student access to, and participation in, new industry-
led earn-and-learn programs leading to high-wage, high-
skill, and high-demand careers.

(b) Authorization of Apprenticeship Grant
Program.—

(1) In General.—From the amounts provided
under this title, the Secretary shall award grants, on
a competitive basis, to eligible partnerships for the purpose described in subsection (a).

(2) DURATION.—The Secretary shall award grants under this section for a period of—

(A) not less than 1 year; and

(B) not more than 4 years.

(3) LIMITATIONS.—

(A) NUMBER OF AWARDS.—An eligible partnership or member of such partnership may not be awarded more than one grant under this section.

(B) ADMINISTRATION COSTS.—An eligible partnership awarded a grant under this section may not use more than 5 percent of the grant funds to pay administrative costs associated with activities funded by the grant.

(c) MATCHING FUNDS.—To receive a grant under this section, an eligible partnership shall, through cash or in-kind contributions, provide matching funds from non-Federal sources in an amount equal to or greater than 50 percent of the amount of such grant.

(d) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant under this section, an eligible partnership shall submit to
the Secretary at such a time as the Secretary may require, an application that—

(A) identifies and designates the business or institution of higher education responsible for the administration and supervision of the earn-and-learn program for which such grant funds would be used;

(B) identifies the businesses and institutions of higher education that comprise the eligible partnership;

(C) identifies the source and amount of the matching funds required under subsection (c);

(D) identifies the number of students who will participate and complete the relevant earn-and-learn program within 1 year of the expiration of the grant;

(E) identifies the amount of time, not to exceed 2 years, required for students to complete the program;

(F) identifies the relevant recognized post-secondary credential to be awarded to students who complete the program;

(G) identifies the anticipated earnings of students—
(i) 1 year after program completion;
and
(ii) 3 years after program completion;

(H) describes the specific project for which
the application is submitted, including a sum-
mary of the relevant classroom and paid struc-
tured on-the-job training students will receive;

(I) describes how the eligible partnership
will finance the program after the end of the
grant period;

(J) describes how the eligible partnership
will support the collection of information and
data for purposes of the program evaluation re-
quired under subsection (e); and

(K) describes the alignment of the pro-
gram with State identified in-demand industry
sectors.

(e) EVALUATION.—

(1) IN GENERAL.—From the amounts provided
under this title, the Secretary shall provide for the
independent evaluation of the grant program estab-
lished under this section that includes the following:

(A) The number of eligible individuals who
participated in programs assisted under this
section.
(B) The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.

(C) The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.

(D) The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program.

(E) The percentage of program participants who obtain a recognized postsecondary credential during participation in the program.

(2) Publication.—The evaluation required by this subsection shall be made publicly available on the website of the Department.

(f) Definitions.—In this section:

(1) Earn-and-learn program.—The term “earn-and-learn program” means an education program, including an apprenticeship program, that provides students with structured, sustained, and paid on-the-job training and accompanying, for credit, classroom instruction that—
(A) is for a period of between 3 months and 2 years; and

(B) leads to, on completion of the program, a recognized postsecondary credential.

(2) ELIGIBLE PARTNERSHIP.—The term “eligible partnership” shall mean a consortium that includes—

(A) 1 or more businesses; and

(B) 1 or more institutions of higher education.

(3) IN-DEMAND INDUSTRY SECTOR OR OCCUPATION.—The term “in-demand industry sector or occupation” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(4) ON-THE-JOB TRAINING.—The term “on-the-job training” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(5) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term “recognized postsecondary credential” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
DIVISION C—IMPROVING SEASONAL GUEST WORKER OPPORTUNITIES

SEC. 31001. SHORT TITLE.

This division may be cited as the “H–2B Returning Worker Exception Act”.

SEC. 31002. DEFINITIONS.

For purposes of this division:

(1) The term “H–2B”, when used with respect to a worker or other individual, refers an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)). Such term, when used with respect to a petition, procedure, process, program, or visa, refers to a petition, procedure, process, program, or visa related to admission or provision of status under such section.

(2) The term “job order” means the document containing the material terms and conditions of employment, including obligations and assurances required under this division or any other law.

(3) The term “United States worker” means any employee who is—
(A) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))); or

(B) an alien lawfully admitted for permanent residence, is admitted as a refugee under section 207 of such Act (8 U.S.C. 1157), is granted asylum under section 208 of such Act (8 U.S.C. 1158), or is an immigrant otherwise authorized by the immigration laws (as defined in section 101(a)(17) of such Act (8 U.S.C. 1101(a)(17))) or the Secretary of Homeland Security to be employed.

SEC. 31003. H–2B CAP RELIEF.

(a) H–2B NUMERICAL LIMITATIONS.—Section 214(g)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)(A)) is amended—

(1) by striking “fiscal year 2013, 2014, or 2015” and inserting “1 of the 3 preceding fiscal years”; and

(2) by striking “fiscal year 2016” and inserting “a fiscal year”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect during the fiscal year in which it is enacted.
SEC. 31004. INCREASED SANCTIONS FOR WILLFUL MISREPRESENTATION OR FAILURE TO MEET THE REQUIREMENTS FOR PETITIONING FOR AN H-2B WORKER.

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in subsection (c)(13)(B), by striking “$150” and inserting “$350”; and

(2) in subsection (c)(14)(A)(i), by striking “may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed $10,000 per violation)” and inserting “shall impose civil monetary penalties in an amount of not less than $1,000 but not to exceed $10,000 per violation, in addition to any other remedy authorized by law, and may impose such other administrative remedies”.

SEC. 31005. REDUCTION OF PAPERWORK BURDEN.

(a) STREAMLINED H–2B PLATFORM.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Administrator of the United States Digital Service, shall ensure the establishment of an elec-
tronic platform through which employers may submit and request approval of an H–2B petition. Such platform shall—

(A) serve as a single point of access for employers to input all information and supporting documentation required for obtaining labor certification from the Secretary of Labor and the adjudication of the petition by the Secretary of Homeland Security;

(B) serve as a single point of access for the Secretary of Homeland Security, the Secretary of Labor, the Secretary of State, and State workforce agencies concurrently to perform their respective review and adjudicatory responsibilities in the petition process;

(C) facilitate communication between employers and agency adjudicators, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) receive notices of approval and denial; and

(iii) request reconsideration or appeal of agency decisions; and
(D) provide information to the Secretary of State and the Secretary of Homeland Security necessary for the efficient and secure processing of H–2B visas and applications for admission.

(2) Objectives.—In developing the platform described in paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Administrator of the United States Digital Service, shall make an effort to streamline and improve the H–2B process, including by—

(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;

(B) reducing common petition errors, and otherwise improving and expediting the processing of H–2B petitions;

(C) ensuring compliance with H–2B program requirements and the protection of the wages and working conditions of workers; and

(D) eliminating unnecessary government waste.

(3) Enhancement of existing platform.—If the Secretary of Homeland Security, the Secretary of Labor, the Secretary of State, or the State
workforce agencies already have an electronic platform with respect to the H–2B process on the date of the enactment of this division, they shall enhance it as necessary so as to ensure that adjudication of an H–2B petition may be conducted electronically as specified in this section.

(b) **Online Job Registry.**—The Secretary of Labor shall maintain a publicly accessible online job registry and database of all job orders submitted by H–2B employers. The registry and database shall—

1. be searchable using relevant criteria, including the types of jobs needed to be filled, the dates and locations of need, and the employers named in the job order;
2. provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and
3. provide for public access of job order certifications.

**SEC. 31006. WORKPLACE SAFETY.**

(a) **Worksite Safety and Compliance Plan.**—If the employer is seeking to employ an H–2B worker pursuant to this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the employer shall maintain an effective worksite safety and compliance plan to ensure
safety and reduce workplace illnesses, injuries and fatalities. Such plan shall—

(1) be in writing in English and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English; and

(2) be posted at a conspicuous location at the worksite and provided to employees prior to the commencement of labor or services.

(b) CONTENTS OF PLAN.—The Secretary of Labor shall establish by regulation the minimum requirements for the plan described in subsection (a). Such plan shall include measures to—

(1) protect against sexual harassment and violence, resolve complaints involving harassment or violence, and protect against retaliation against workers reporting harassment or violence; and

(2) contain other provisions necessary for ensuring workplace safety.

SEC. 31007. FOREIGN LABOR RECRUITING; PROHIBITION ON FEES.

(a) FOREIGN LABOR RECRUITING.—If an employer has engaged any foreign labor contractor or recruiter (or any agent of such a foreign labor contractor or recruiter) in the recruitment of H–2B workers, the employer shall
disclose the identity and geographic location of such person or entity to the Secretary of Labor in accordance with the regulations of the Secretary.

(b) Prohibition Against Employees Paying Fees.—Neither the employer nor its agents shall seek or receive payment of any kind from any worker for any activity related to the H–2B petition process, including payment of the employer’s attorneys’ fees, application fees, or recruitment costs. An employer and its agents may receive reimbursement for costs that are the responsibility, and primarily for the benefit, of the worker, such as government-required passport fees.

c) Third Party Contracts.—The employer shall contractually forbid any foreign labor contractor or recruiter (or any agent of a foreign labor contractor or recruiter) who the employer engages, either directly or indirectly, in the recruitment of H–2B workers to seek or receive payments or other compensation from prospective employees. Upon learning that a foreign labor contractor or recruiter has collected such payments, the employer shall terminate any contracts with the foreign labor contractor or recruiter.

SEC. 31008. PROGRAM INTEGRITY MEASURES.

(a) Enforcement Authority.—With respect to the H–2B program, the Secretary of Labor is authorized
to take such actions against employers, including imposing appropriate penalties and seeking monetary and injunctive relief and specific performance of contractual obligations, as may be necessary to ensure compliance with—

(1) the requirements of this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(2) the applicable terms and conditions of employment.

(b) Complaint Process.—

(1) Process.—With respect to the H–2B program, the Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints alleging failure of an employer to comply with—

(A) the requirements of this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) the applicable terms and conditions of employment.

(2) Filing.—Any aggrieved person or organization, including a bargaining representative, may file a complaint referred to in paragraph (1) not later than 2 years after the date of the conduct that is the subject of the complaint.
(3) Complaint not exclusive.—A complaint filed under this subsection is not an exclusive remedy and the filing of such a complaint does not waive any rights or remedies of the aggrieved party under this law or other laws.

(4) Decision and remedies.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer failed to comply with the requirements of this division, the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), or the terms and conditions of employment, the Secretary of Labor shall require payment of unpaid wages, unpaid benefits, damages, and civil money penalties. The Secretary is also authorized to impose other administrative remedies, including disqualification of the employer from utilizing the H–2B program for a period of up to 5 years in the event of willful or multiple material violations. The Secretary is authorized to permanently disqualify an employer from utilizing the H–2B program upon a subsequent finding involving willful or multiple material violations.

(5) Disposition of penalties.—To the extent provided in advance in appropriations Acts, civil penalties collected under this subsection shall be
used by the Secretary of Labor for the administration and enforcement of the provisions of this section.

(6) **Statutory construction.**—Nothing in this subsection may be construed as limiting the authority of the Secretary of Labor to conduct an investigation in the absence of a complaint.

(7) **Retaliation prohibited.**—It is a violation of this subsection for any person to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against, or to cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, an employee, including a former employee or an applicant for employment, because the employee—

(A) has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of the immigration laws relating to the H–2B program, or any rule or regulation relating to such program;

(B) has filed a complaint concerning the employer’s compliance with the immigration laws relating to the H–2B program, or any rule or regulation relating to such program;
(C) cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the immigration laws relating to the H–2B program, or any rule or regulation relating to such program; or

(D) has taken steps to exercise or assert any right or protection under the provisions of this section, or any rule or regulation pertaining to this section, or any other relevant Federal, State, or local law.

(c) INTERAGENCY COMMUNICATION.—The Secretary of Labor, in consultation with the Secretary of Homeland Security, the Secretary of State and the Equal Employment Opportunity Commission, shall establish mechanisms by which the agencies and their components share information, including by public electronic means, regarding complaints, studies, investigations, findings and remedies regarding compliance by employers with the requirements of the H–2B program and other employment-related laws and regulations.

SEC. 31009. PROGRAM ELIGIBILITY.

(a) IN GENERAL.—A petition filed by an employer under subsection (c)(1) initially to grant an alien non-immigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C.

May 22, 2023 (8:36 p.m.)
1101(a)(15)(H)(ii)(b)), or to extend or change to such status, may be approved only for nationals of countries that the Secretary of Homeland Security has designated as participating countries, with the concurrence of the Secretary of State, in a notice published in the Federal Register, taking into account for each such country factors, including—

(1) the fraud rate relating to petitions under section 101(a)(15)(H)(ii) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)) filed for by nationals of the country and visa applications under such section filed by nationals of the country;

(2) the denial rate of visa applications under such section 101(a)(15)(H)(ii) filed by nationals of the country;

(3) the overstay rate of nationals of the country who were admitted to the United States under such section 101(a)(15)(H)(ii);

(4) the number of nationals of the country who were admitted to the United States under such section 101(a)(15)(H)(ii) and who were reported by their employers to—

(A) have failed to report to work within 5 workdays of the employment start date on the petition or within 5 workdays of the date on
which the worker is admitted into the United
States pursuant to the petition, whichever is
later; or

(B) have not reported for work for a pe-
period of 5 consecutive workdays without the con-
sent of the employer;

(5) the number of final and unexecuted orders
of removal against citizens, subjects, nationals, and
residents of the country; and

(6) such other factors as may serve the United
States interest.

(b) LIMITATION.—A country may not be included on
the list described in subsection (a) if the country denies
or unreasonably delays the repatriation of aliens who are
subject to a final order of removal and who are citizens,
subjects, nationals or residents of that country.

(c) STATISTICS.—The Secretary of Homeland Secu-
rity shall include in the notice described in subsection (a),
for each country included in the list of participating coun-
tries, the statistics referenced in paragraphs (1) through
(5) of that subsection, if available, for the immediately
preceding fiscal year.

(d) NATIONAL FROM A COUNTRY NOT ON THE
LIST.—A national from a country not on the list described
in subsection (a) may be a beneficiary of an approved peti-
tion under such section 101(a)(15)(H)(ii) upon the request of a petitioner or potential petitioner, if the Secretary of Homeland Security, in his sole and unreviewable discretion, determines that it is in the United States interest for that alien to be a beneficiary of such petition. Determination of such a United States interest will take into account factors, including but not limited to—

(1) evidence from the petitioner demonstrating that a worker with the required skills is not available from among foreign workers from a country currently on the list described in subsection (a);

(2) evidence that the beneficiary has been admitted to the United States previously in status under such section 101(a)(15)(H)(ii);

(3) the potential for abuse, fraud, or other harm to the integrity of the visa program under such section 101(a)(15)(H)(ii) through the potential admission of a beneficiary from a country not currently on the list; and

(4) such other factors as may serve the United States interest.

(e) DURATION.—Once published, any designation of participating countries pursuant to subsection (a) shall be effective for one year after the date of publication in the
Federal Register and shall be without effect at the end of that one-year period.

SEC. 31010. H–2B EMPLOYER NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—An employer of one or more H–2B workers shall, within three business days, make electronic notification, in the manner prescribed by the Secretary of Homeland Security, of the following events:

(1) Such a worker fails to report to work within 5 workdays of the employment start date on the petition or within 5 workdays of the date on which the worker is admitted into the United States pursuant to the petition, whichever is later.

(2) The labor or services for which such a worker was hired is completed more than 30 days earlier than the employment end date stated on the petition.

(3) The employment of such a worker is terminated prior to the completion of labor or services for which he or she was hired.

(4) Such a worker has not reported for work for a period of 5 consecutive workdays without the consent of the employer.

(b) EVIDENCE.—An employer shall retain evidence of a notification described in subsection (a) and make it available for inspection by officers of the Department of
Homeland Security for a 1-year period beginning on the
date of the notification.

(c) Penalty.—The Secretary shall impose civil mon-
etary penalties, in an amount not less than $500 per viola-
tion and not to exceed $1,000 per violation, as the Sec-
etary determines to be appropriate, for each instance
where the employer cannot demonstrate that it has com-
plied with the notification requirements, unless, in the
case of an untimely notification, the employer dem-
onstrates with such notification that good cause existed
for the untimely notification, and the Secretary of Home-
land Security, in the Secretary’s discretion, waives such
penalty.

(d) Process.—If the Secretary has determined that
an employer has violated the notification requirements in
subsection (a), the employer shall be given written notice
and 30 days to reply before being given written notice of
the assessment of the penalty.

(e) Failure To Pay Penalty.—If a penalty de-
scribed in subsection (c) is not paid within 10 days of as-
se ssment, no nonimmigrant or immigrant petition may be
processed for that employer, nor may that employer con-
tinue to employ nonimmigrants, until such penalty is paid.
SEC. 31011. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2024 and each fiscal year thereafter such sums as may be necessary for the purposes of—

(1) recruiting United States workers for labor or services which might otherwise be performed by H–2B workers, including by ensuring that State workforce agencies are sufficiently funded to fulfill their functions under the H–2B program;

(2) enabling the Secretary of Labor to make determinations and certifications under the H–2B program in accordance with this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the operation of the publicly accessible online job registry and database of job orders described in section 1005(b) of this division; and

(3) monitoring the terms and conditions under which H–2B workers (and United States workers employed by the same employers) are employed in the United States.

DIVISION D—AMERICAN AGRICULTURE DOMINANCE ACT

SEC. 41001. SHORT TITLE.

This Act may be cited as the “American Agriculture Dominance Act”.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Status for Certified Agricultural Workers

SEC. 41101. CERTIFIED AGRICULTURAL WORKER STATUS.

(a) REQUIREMENTS FOR CERTIFIED AGRICULTURAL WORKER STATUS.—

(1) Principal Aliens.—The Secretary may grant certified agricultural worker status to an alien who submits a completed application, including the required processing fees, before the end of the period set forth in subsection (c) and who—

(A) performed agricultural labor or services in the United States for at least 1,035 hours (or 180 workdays) during the 2-year period preceding the date of the introduction of this Act;

(B) on the date of the introduction of this Act—

(i) is inadmissible or deportable from the United States; or

(ii) is under a grant of deferred enforced departure or has temporary pro-
tected status under section 244 of the Im-
migration and Nationality Act;

(C) subject to section 104, has been con-
tinuously present in the United States since the
date of the introduction of this Act and until
the date on which the alien is granted certified
agricultural worker status; and

(D) is not otherwise ineligible for certified
agricultural worker status as provided in sub-
section (b).

(2) DEPENDENT SPOUSE AND CHILDREN.—The
Secretary may grant certified agricultural dependent
status to the spouse or child of an alien granted cer-
tified agricultural worker status under paragraph
(1) if the spouse or child is not ineligible for cer-
tified agricultural dependent status as provided in
subsection (b).

(b) GROUNDS FOR INELIGIBILITY.—

(1) GROUNDS OF INADMISSIBILITY.—Except as
provided in paragraph (3), an alien is ineligible for
certified agricultural worker or certified agricultural
dependent status if the Secretary determines that
the alien is inadmissible under section 212(a) of the
Immigration and Nationality Act (8 U.S.C.
1182(a)), except that in determining inadmissibility—

(A) paragraphs (4), (5), (7), and (9)(B) of such section shall not apply;

(B) subparagraphs (A), (C), (D), (F), and (G) of such section 212(a)(6) and paragraphs (9)(C) and (10)(B) of such section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of introduction of this Act; and

(C) paragraphs (6)(B) and (9)(A) of such section 212(a) shall not apply unless the relevant conduct began on or after the date of filing of the application for certified agricultural worker status.

(2) ADDITIONAL CRIMINAL BARS.—Except as provided in paragraph (3), an alien is ineligible for certified agricultural worker or certified agricultural dependent status if the Secretary determines that, excluding any offense under State law for which an essential element is the alien’s immigration status and any minor traffic offense, the alien has been convicted of—

(A) any felony offense;
(B) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) at the time of the conviction);

(C) two misdemeanor offenses involving moral turpitude, as described in section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)), unless an offense is waived by the Secretary under paragraph (3)(B); or

(D) three or more misdemeanor offenses not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct.

(3) Waivers for Certain Grounds of Inadmissibility.—For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may waive the grounds of inadmissibility under—

(A) paragraph (1), (6)(E), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(B) subparagraphs (A) and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless inadmis-
sibility is based on a conviction that would other-
wise render the alien ineligible under subpara-
graph (A), (B), or (D) of paragraph (2).

(c) APPLICATION.—

(1) APPLICATION PERIOD.—Except as provided in paragraph (2), the Secretary shall accept initial applications for certified agricultural worker status during the 18-month period beginning on the date on which the interim final rule is published in the Federal Register pursuant to section 122(a).

(2) EXTENSION.—If the Secretary determines, during the initial period described in paragraph (1), that additional time is required to process initial applications for certified agricultural worker status or for other good cause, the Secretary may extend the period for accepting applications for up to an additional 12 months.

(3) SUBMISSION OF APPLICATIONS.—

(A) IN GENERAL.—An alien may file an application with the Secretary under this section with the assistance of an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations. The Sec-
retary shall also create a procedure for accepting applications filed by qualified designated entities with the consent of the applicant.

(B) Farm Service Agency Offices.—
The Secretary, in consultation with the Secretary of Agriculture, shall establish a process for the filing of applications under this section at Farm Service Agency offices throughout the United States.

(4) Evidence of Application Filing.—As soon as practicable after receiving an application for certified agricultural worker status, the Secretary shall provide the applicant with a document acknowledging the receipt of such application. Such document shall serve as interim proof of the alien’s authorization to accept employment in the United States and shall be accepted by an employer as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is employing the holder of such document to perform agricultural labor or services, pending a final administrative decision on the application.

(5) Effect of Pending Application.—During the period beginning on the date on which an
alien applies for certified agricultural worker status under this subtitle, and ending on the date on which the Secretary makes a final administrative decision regarding such application, the alien and any dependents included in the application—

(A) may apply for advance parole, which shall be granted upon demonstrating a legitimate need to travel outside the United States for a temporary purpose;

(B) may not be detained by the Secretary or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for certified agricultural worker status;

(C) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(6) WITHDRAWAL OF APPLICATION.—The Secretary shall, upon receipt of a request from the applicant to withdraw an application for certified agri-
cultural worker status under this subtitle, cease
processing of the application, and close the case.
Withdrawal of the application shall not prejudice
any future application filed by the applicant for any
immigration benefit under this Act or under the Im-
migration and Nationality Act (8 U.S.C. 1101 et
seq.).

(d) ADJUDICATION AND DECISION.—

(1) IN GENERAL.—Subject to section 123, the
Secretary shall render a decision on an application
for certified agricultural worker status not later than
180 days after the date the application is filed.

(2) NOTICE.—Prior to denying an application
for certified agricultural worker status, the Sec-
retary shall provide the alien with—

(A) written notice that describes the basis
for ineligibility or the deficiencies in the evi-
dence submitted; and

(B) at least 90 days to contest ineligibility
or submit additional evidence.

(3) AMENDED APPLICATION.—An alien whose
application for certified agricultural worker status is
denied under this section may submit an amended
application for such status to the Secretary if the
amended application is submitted within the applica-
tion period described in subsection (c) and contains all the required information and fees that were missing from the initial application.

(e) ALTERNATIVE H–2A STATUS.—An alien who has not met the required period of agricultural labor or services under subsection (a)(1)(A), but is otherwise eligible for certified agricultural worker status under such subsection, shall be eligible for classification as a non-immigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) upon approval of a petition submitted by a sponsoring employer, if the alien has performed at least 575 hours (or 100 workdays) of agricultural labor or services during the 3-year period preceding the date of the introduction of this Act. The Secretary shall create a procedure to provide for such classification without requiring the alien to depart the United States and obtain a visa abroad.

SEC. 41102. TERMS AND CONDITIONS OF CERTIFIED STATUS.

(a) IN GENERAL.—

(1) APPROVAL.—Upon approval of an application for certified agricultural worker status, or an extension of such status pursuant to section 103, the Secretary shall issue—
(A) documentary evidence of such status to
the applicant; and

(B) documentary evidence of certified agri-
cultural dependent status to any qualified de-
pendent included on such application.

(2) DOCUMENTARY EVIDENCE.—In addition to
any other features and information as the Secretary
may prescribe, the documentary evidence described
in paragraph (1)—

(A) shall be machine-readable and tamper-
resistant;

(B) shall contain a digitized photograph;

(C) shall serve as a valid travel and entry
document for purposes of applying for admis-
sion to the United States; and

(D) shall be accepted during the period of
its validity by an employer as evidence of em-
ployment authorization and identity under sec-
tion 274A(b)(1)(B) of the Immigration and Na-
tionality Act (8 U.S.C. 1324a(b)(1)(B)).

(3) VALIDITY PERIOD.—Certified agricultural
worker and certified agricultural dependent status
shall be valid for 5½ years beginning on the date of
approval.
(4) Travel Authorization.—An alien with certified agricultural worker or certified agricultural dependent status may—

(A) travel within and outside of the United States, including commuting to the United States from a residence in a foreign country; and

(B) be admitted to the United States upon return from travel abroad without first obtaining a visa if the alien is in possession of—

(i) valid, unexpired documentary evidence of certified agricultural worker or certified agricultural worker dependent status as described in subsection (a); or

(ii) a travel document that has been approved by the Secretary and was issued to the alien after the alien’s original documentary evidence was lost, stolen, or destroyed.

(b) Ability To Change Status.—

(1) Change to Certified Agricultural Worker Status.—Notwithstanding section 101(a), an alien with valid certified agricultural dependent status may apply to change to certified agricultural worker status, at any time, if the alien—
(A) submits a completed application, including the required processing fees; and

(B) is not ineligible for certified agricultural worker status under section 101(b).

(2) CLARIFICATION.—Nothing in this title prohibits an alien granted certified agricultural worker or certified agricultural dependent status from changing status to any other nonimmigrant classification for which the alien may be eligible.

(c) PROHIBITION ON PUBLIC BENEFITS, TAX BENEFITS, AND HEALTH CARE SUBSIDIES.—Aliens granted certified agricultural worker or certified agricultural dependent status shall be considered lawfully present in the United States for all purposes for the duration of their status, except that such aliens—

(1) shall be ineligible for Federal means-tested public benefits to the same extent as other individuals who are not qualified aliens under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641);

(2) are not entitled to the premium assistance tax credit authorized under section 36B of the Internal Revenue Code of 1986 (26 U.S.C. 36B), and shall be subject to the rules applicable to individuals
who are not lawfully present set forth in subsection (e) of such section;

(3) shall be subject to the rules applicable to individuals who are not lawfully present set forth in section 1402(e) of the Patient Protection and Affordable Care Act (42 U.S.C. 18071(e)); and

(4) shall be subject to the rules applicable to individuals not lawfully present set forth in section 5000A(d)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 5000A(d)(3)).

(d) Revocation of Status.—

(1) In General.—The Secretary may revoke certified agricultural worker or certified agricultural dependent status if, after providing notice to the alien and the opportunity to provide evidence to contest the proposed revocation, the Secretary determines that the alien no longer meets the eligibility requirements for such status under section 101(b).

(2) Invalidation of Documentation.—Upon the Secretary’s final determination to revoke an alien’s certified agricultural worker or certified agricultural dependent status, any documentation issued by the Secretary to such alien under subsection (a) shall automatically be rendered invalid for any purpose except for departure from the United States.
SEC. 41103. EXTENSIONS OF CERTIFIED STATUS.

(a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

(1) PRINCIPAL ALIENS.—The Secretary may extend certified agricultural worker status for additional periods of 5½ years to an alien who submits a completed application, including the required processing fees, within the 120-day period beginning 60 days before the expiration of the fifth year of the immediately preceding grant of certified agricultural worker status, if the alien—

(A) except as provided in section 126(c), has performed agricultural labor or services in the United States for at least 575 hours (or 100 workdays) for each of the prior 5 years in which the alien held certified agricultural worker status; and

(B) has not become ineligible for certified agricultural worker status under section 101(b).

(2) DEPENDENT SPOUSE AND CHILDREN.—The Secretary may grant or extend certified agricultural dependent status to the spouse or child of an alien granted an extension of certified agricultural worker status under paragraph (1) if the spouse or child is not ineligible for certified agricultural dependent status under section 101(b).
(3) W AIVER FOR LATE FILINGS.—The Secretary may waive an alien’s failure to timely file before the expiration of the 120-day period described in paragraph (1) if the alien demonstrates that the delay was due to extraordinary circumstances beyond the alien’s control or for other good cause.

(b) STATUS FOR WORKERS WITH PENDING APPLICATIONS.—

(1) IN GENERAL.—Certified agricultural worker status of an alien who timely files an application to extend such status under subsection (a) (and the status of the alien’s dependents) shall be automatically extended through the date on which the Secretary makes a final administrative decision regarding such application.

(2) DOCUMENTATION OF EMPLOYMENT AUTHORIZATION.—As soon as practicable after receipt of an application to extend certified agricultural worker status under subsection (a), the Secretary shall issue a document to the alien acknowledging the receipt of such application. An employer of the worker may not refuse to accept such document as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality
Act (8 U.S.C. 1324a(b)(1)(C)), pending a final administrative decision on the application.

(c) NOTICE.—Prior to denying an application to extend certified agricultural worker status, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

SEC. 41104. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—The continuous presence in the United States of an applicant for certified agricultural worker status under section 101 shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain continuous presence in the United States under this subtitle if the alien departed the United States for any period exceeding
90 days, or for any periods, in the aggregate, exceeding 180 days.

(2) **Extensions for extenuating circumstances.**—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien’s control, including the serious illness of the alien, or death or serious illness of a spouse, parent, son or daughter, grandparent, or sibling of the alien.

(3) **Travel authorized by the Secretary.**—Any period of travel outside of the United States by an alien that was authorized by the Secretary shall not be counted toward any period of departure from the United States under paragraph (1).

**SEC. 41105. EMPLOYER OBLIGATIONS.**

(a) **Record of Employment.**—An employer of an alien in certified agricultural worker status shall provide such alien with a written record of employment each year during which the alien provides agricultural labor or services to such employer as a certified agricultural worker.

(b) **Civil Penalties.**—
(1) IN GENERAL.—If the Secretary determines, after notice and an opportunity for a hearing, that an employer of an alien with certified agricultural worker status has knowingly failed to provide the record of employment required under subsection (a), or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed $500 per violation.

(2) LIMITATION.—The penalty under paragraph (1) for failure to provide employment records shall not apply unless the alien has provided the employer with evidence of employment authorization described in section 102 or 103.

(3) DEPOSIT OF CIVIL PENALTIES.—Civil penalties collected under this paragraph shall be deposited into the Immigration Examinations Fee Account under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

SEC. 41106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for certified agricultural worker status under this subtitle, an application to extend such status, or a revocation of such status.
(b) Admissibility in Immigration Court.—Each record of an alien’s application for certified agricultural worker status under this subtitle, application to extend such status, revocation of such status, and each record created pursuant to the administrative review process under subsection (a) is admissible in immigration court, and shall be included in the administrative record.

(c) Judicial Review.—Notwithstanding any other provision of law, judicial review of the Secretary’s decision to deny an application for certified agricultural worker status, an application to extend such status, or the decision to revoke such status, shall be limited to the review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

Subtitle B—Optional Earned Residence for Long-Term Workers

SEC. 41201. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-TERM AGRICULTURAL WORKERS.

(a) Requirements for Adjustment of Status.—

(1) Principal aliens.—The Secretary may adjust the status of an alien from that of a certified agricultural worker to that of a lawful permanent resident if the alien submits a completed application,
including the required processing and penalty fees,
and the Secretary determines that—

(A) except as provided in section 126(c),
the alien performed agricultural labor or serv-
ices for not less than 575 hours (or 100 work-
days) each year—

(i) for at least 10 years prior to the
date of the enactment of this Act and for
at least 4 years in certified agricultural
worker status; or

(ii) for fewer than 10 years prior to
the date of the enactment of this Act and
for at least 8 years in certified agricultural
worker status; and

(B) the alien has not become ineligible for
certified agricultural worker status under sec-
tion 101(b).

(2) DEPENDENT ALIENS.—

(A) IN GENERAL.—The spouse and each
child of an alien described in paragraph (1)
whose status has been adjusted to that of a
lawful permanent resident may be granted law-
ful permanent residence under this subtitle if—

(i) the qualifying relationship to the
principal alien existed on the date on which
such alien was granted adjustment of status under this subtitle; and

(ii) the spouse or child is not ineligible for certified agricultural worker dependent status under section 101(b).

(B) Protections for Spouses and Children.—The Secretary of Homeland Security shall establish procedures to allow the spouse or child of a certified agricultural worker to self-petition for lawful permanent residence under this subtitle in cases involving—

(i) the death of the certified agricultural worker, so long as the spouse or child submits a petition not later than 2 years after the date of the worker’s death; or

(ii) the spouse or a child being battered or subjected to extreme cruelty by the certified agricultural worker.

(3) Documentation of Work History.—An applicant for adjustment of status under this section shall not be required to resubmit evidence of work history that has been previously submitted to the Secretary in connection with an approved extension of certified agricultural worker status.
(b) PENALTY FEE.—In addition to any processing fee that the Secretary may assess in accordance with section 122(b), a principal alien seeking adjustment of status under this subtitle shall pay a $1,000 penalty fee, which shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

(c) EFFECT OF PENDING APPLICATION.—During the period beginning on the date on which an alien applies for adjustment of status under this subtitle, and ending on the date on which the Secretary makes a final administrative decision regarding such application, the alien and any dependents included on the application—

(1) may apply for advance parole, which shall be granted upon demonstrating a legitimate need to travel outside the United States for a temporary purpose;

(2) may not be detained by the Secretary or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for adjustment of status under subsection (a);

(3) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and
(4) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(d) EVIDENCE OF APPLICATION FILING.—As soon as practicable after receiving an application for adjustment of status under this subtitle, the Secretary shall provide the applicant with a document acknowledging the receipt of such application. Such document shall serve as interim proof of the alien's authorization to accept employment in the United States and shall be accepted by an employer as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), pending a final administrative decision on the application.

(e) WITHDRAWAL OF APPLICATION.—The Secretary shall, upon receipt of a request to withdraw an application for adjustment of status under this subtitle, cease processing of the application, and close the case. Withdrawal of the application shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).
SEC. 41202. PAYMENT OF TAXES.

(a) IN GENERAL.—An alien may not be granted adjustment of status under this subtitle unless the applicant has satisfied any applicable Federal tax liability.

(b) COMPLIANCE.—An alien may demonstrate compliance with subsection (a) by submitting such documentation as the Secretary, in consultation with the Secretary of the Treasury, may require by regulation.

SEC. 41203. ADJUDICATION AND DECISION; REVIEW.

(a) IN GENERAL.—Subject to the requirements of section 123, the Secretary shall render a decision on an application for adjustment of status under this subtitle not later than 180 days after the date on which the application is filed.

(b) NOTICE.—Prior to denying an application for adjustment of status under this subtitle, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

(c) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for adjustment of status under this subtitle.
(d) Judicial Review.—Notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status under this title in an appropriate United States district court.

Subtitle C—General Provisions

SEC. 41301. DEFINITIONS.

In this title:

(1) In General.—Except as otherwise provided, any term used in this title that is used in the immigration laws shall have the meaning given such term in the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(2) Agricultural Labor or Services.—The term “agricultural labor or services” has the meaning given such term in section 101(a)(53) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(53)).

(3) Applicable Federal Tax Liability.—The term “applicable Federal tax liability” means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 beginning on the date on which the applicant was authorized to work in the United States as a certified agricultural worker.
(4) Appropriate United States District Court.—The term “appropriate United States district court” means the United States District Court for the District of Columbia or the United States district court with jurisdiction over the alien’s principal place of residence.

(5) Child.—The term “child” has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(6) Convicted or conviction.—The term “convicted” or “conviction” does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

(7) Employer.—The term “employer” means any person or entity, including any labor contractor or any agricultural association, that employs workers in agricultural labor or services.

(8) Qualified designated entity.—The term “qualified designated entity” means—

(A) a qualified farm labor organization or an association of employers designated by the Secretary; or

(B) any other entity that the Secretary designates as having substantial experience,
demonstrated competence, and a history of long-term involvement in the preparation and submission of application for adjustment of status under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.).

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

(10) WORKDAY.—The term “workday” means any day in which the individual is employed 5.75 or more hours in agricultural labor or services.

SEC. 41302. RULEMAKING; FEES.

(a) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, an interim final rule implementing this title. Notwithstanding section 553 of title 5, United States Code, the rule shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for comment. The Secretary shall finalize such rule not later than 1 year after the date of the enactment of this Act.

(b) FEES.—

(1) IN GENERAL.—The Secretary may require an alien applying for any benefit under this title to
pay a reasonable fee that is commensurate with the
cost of processing the application.

(2) Fee waiver; installments.—

(A) In general.—The Secretary shall es-
tablish procedures to allow an alien to—

(i) request a waiver of any fee that
the Secretary may assess under this title if
the alien demonstrates to the satisfaction
of the Secretary that the alien is unable to
pay the prescribed fee; or

(ii) pay any fee or penalty that the
Secretary may assess under this title in in-
stallments.

(B) Clarification.—Nothing in this sec-
tion shall be read to prohibit an employer from
paying any fee or penalty that the Secretary
may assess under this title on behalf of an alien
and the alien’s spouse or children.

SEC. 41303. BACKGROUND CHECKS.

(a) Submission of biometric and biographic
data.—The Secretary may not grant or extend certified
agricultural worker or certified agricultural dependent sta-
tus under subtitle A, or grant adjustment of status to that
of a lawful permanent resident under subtitle B, unless
the alien submits biometric and biographic data, in accord-
ance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who cannot provide all required biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for status under this title. An alien may not be granted any such status under this title unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

SEC. 41304. PROTECTION FOR CHILDREN.

(a) IN GENERAL.—Except as provided in subsection (b), for purposes of eligibility for certified agricultural dependent status or lawful permanent resident status under this title, a determination of whether an alien is a child shall be made using the age of the alien on the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

(b) LIMITATION.—Subsection (a) shall apply for no more than 10 years after the date on which the initial
application for certified agricultural worker status is filed with the Secretary of Homeland Security.

SEC. 41305. LIMITATION ON REMOVAL.

(a) IN GENERAL.—An alien who appears to be prima facie eligible for status under this title shall be given a reasonable opportunity to apply for such status. Such an alien may not be placed in removal proceedings or removed from the United States until a final administrative decision establishing ineligibility for such status is rendered.

(b) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of the law, the Attorney General shall (upon motion by the Secretary with the consent of the alien, or motion by the alien) terminate removal proceedings, without prejudice, against an alien who appears to be prima facie eligible for status under this title, and provide such alien a reasonable opportunity to apply for such status.

(c) EFFECT OF FINAL ORDER.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for status under this title. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall notify the At-
torney General of such approval, and the Attorney General shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(d) Effect of Departure.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien who departs the United States—

(1) with advance permission to return to the United States granted by the Secretary under this title; or

(2) after having been granted certified agricultural worker status or lawful permanent resident status under this title.

SEC. 41306. DOCUMENTATION OF AGRICULTURAL WORK HISTORY.

(a) Burden of Proof.—An alien applying for certified agricultural worker status under subtitle A or adjustment of status under subtitle B has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101, 103, or 111, as applicable. The Secretary shall establish special procedures to properly credit
work in cases in which an alien was employed under an assumed name.

(b) EVIDENCE.—An alien may meet the burden of proof under subsection (a) by producing sufficient evidence to show the extent of such employment as a matter of just and reasonable inference. Such evidence may include—

(1) an annual record of certified agricultural worker employment as described in section 105(a), or other employment records from employers;

(2) employment records maintained by collective bargaining associations;

(3) tax records or other government records;

(4) sworn affidavits from individuals who have direct knowledge of the alien’s work history; or

(5) any other documentation designated by the Secretary for such purpose.

(c) EXCEPTIONS FOR EXTRAORDINARY CIRCUMSTANCES.—

(1) IMPACT OF COVID–19.—

(A) IN GENERAL.—The Secretary may grant certified agricultural worker status to an alien who is otherwise eligible for such status if such alien is able to only partially satisfy the requirement under section 101(a)(1)(A) as a re-
result of reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19.

(B) LIMITATION.—The exception described in subparagraph (A) shall apply only to agricultural labor or services required to be performed during the period that—

(i) begins on the first day of the public health emergency described in subparagraph (A); and

(ii) ends 90 days after the date on which such public health emergency terminates.

(2) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under section 103(a)(1)(A) or 111(a)(1)(A), the Secretary may credit the alien with not more than 575 hours (or 100 workdays) of agricultural labor or services in the United States if the alien was unable to perform the required agricultural labor or services due to—
(A) pregnancy, parental leave, illness, disease, disabling injury, or physical limitation of the alien;

(B) injury, illness, disease, or other special needs of the alien’s child or spouse;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services;

(D) reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19; or

(E) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(3) Effect of Determination.—A determination under paragraph (1)(E) shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or pro-
ceeding between the alien and a current or prior employer of the alien or any other party.

(4) HARDSHIP WAIVER.—

(A) IN GENERAL.—As part of the rule-making described in section 122(a), the Secretary shall establish procedures allowing for a partial waiver of the requirement under section 111(a)(1)(A) for a certified agricultural worker if such worker—

(i) has continuously maintained certified agricultural worker status since the date such status was initially granted;

(ii) has partially completed the requirement under section 111(a)(1)(A); and

(iii) is no longer able to engage in agricultural labor or services safely and effectively because of—

(I) a permanent disability suffered while engaging in agricultural labor or services; or

(II) deteriorating health or physical ability combined with advanced age.

(B) DISABILITY.—In establishing the procedures described in subparagraph (A), the Sec-
Secretary shall consult with the Secretary of Health and Human Services and the Commissioner of Social Security to define “permanent disability” for purposes of a waiver under subparagraph (A)(iii)(I).

SEC. 41307. EMPLOYER PROTECTIONS.

(a) CONTINUING EMPLOYMENT.—An employer that continues to employ an alien knowing that the alien intends to apply for certified agricultural worker status under subtitle A shall not violate section 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) by continuing to employ the alien for the duration of the application period under section 101(c), and with respect to an alien who applies for certified agricultural status, for the duration of the period during which the alien’s application is pending final determination.

(b) USE OF EMPLOYMENT RECORDS.—Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application for certified agricultural worker or adjustment of status under this title may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code.
of 1986 for the prior unlawful employment of that alien regardless of the outcome of such application.

(c) ADDITIONAL PROTECTIONS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment in support of an application for certified agricultural worker status or adjustment of status under this title shall not be subject to civil and criminal liability pursuant to such section 274A for employing such unauthorized aliens. Records or other evidence of employment provided by employers in response to a request for such records for the purpose of establishing eligibility for status under this title may not be used for any purpose other than establishing such eligibility.

(d) LIMITATION ON PROTECTION.—The protections for employers under this section shall not apply if the employer provides employment records to the alien that are determined to be fraudulent.

SEC. 41308. CORRECTION OF SOCIAL SECURITY RECORDS; CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;
(2) in subparagraph (C), by inserting “or” at the end;

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

“(D) who is granted certified agricultural worker status, certified agricultural dependent status, or lawful permanent resident status under title I of the American Agriculture Dominance Act,”; and

(4) in the undesignated matter following subparagraph (D), as added by paragraph (3), by striking “1990.” and inserting “1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted status under title I of the American Agriculture Dominance Act.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

e) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—Section 210(a)(1) of the Social Security Act (42 U.S.C. 410(a)(1)) is amended by inserting before the semicolon the following: “(other than aliens granted certified agricultural worker status or certified agricultural depend-
ent status under title I of the American Agriculture
Dominance Act”.

(2) INTERNAL REVENUE CODE OF 1986.—Section 3121(b)(1) of the Internal Revenue Code of 1986 is amended by inserting before the semicolon the following: “(other than aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the American Agriculture Dominance Act”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to service performed after the date of the enactment of this Act.

(d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended by adding at the end the following:

“(iv) The Commissioner of Social Security shall, to the extent practicable, coordinate with the Secretary of the Department of Homeland Security to implement an automated system for the Commissioner to assign social security account numbers to aliens granted certified agricultural worker status or certified agricultural de-
pendent status under title I of the American Agriculture Dominance Act. An alien who is granted such status, and who was not previously assigned a social security account number, shall request assignment of a social security account number and a social security card from the Commissioner through such system. The Secretary shall collect and provide to the Commissioner such information as the Commissioner deems necessary for the Commissioner to assign a social security account number, which information may be used by the Commissioner for any purpose for which the Commissioner is otherwise authorized under Federal law. The Commissioner may maintain, use, and disclose such information only as permitted by the Privacy Act and other Federal law.”

SEC. 41309. DISCLOSURES AND PRIVACY.

(a) IN GENERAL.—The Secretary may not disclose or use information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during adminis-
trative or judicial review) for the purpose of immigration
enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based
solely on information provided in an application for cer-
tified agricultural worker status or adjustment of status
under this title (including information provided during ad-
ministrative or judicial review), may not refer an applicant
to U.S. Immigration and Customs Enforcement, U.S. Cus-
toms and Border Protection, or any designee of either
such entity.

c) EXCEPTIONS.—Notwithstanding subsections (a)
and (b), information provided in an application for cer-
tified agricultural worker status or adjustment of status
under this title may be shared with Federal security and
law enforcement agencies—

(1) for assistance in the consideration of an ap-
plication under this title;

(2) to identify or prevent fraudulent claims or
schemes;

(3) for national security purposes; or

(4) for the investigation or prosecution of any
felony not related to immigration status.

d) PENALTY.—Any person who knowingly uses, pub-
lishes, or permits information to be examined in violation
of this section shall be fined not more than $10,000.
(e) PRIVACY.—The Secretary shall ensure that appropriate administrative and physical safeguards are in place to protect the security, confidentiality, and integrity of personally identifiable information collected, maintained, and disseminated pursuant to this title.

SEC. 41310. PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.

(a) CRIMINAL PENALTY.—Any person who—

(1) files an application for certified agricultural worker status or adjustment of status under this title and knowingly falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(2) creates or supplies a false writing or document for use in making such an application, shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(b) INADMISSIBILITY.—An alien who is convicted under subsection (a) shall be deemed inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).
(c) DEPOSIT.—Fines collected under subsection (a) shall be deposited into the Immigration Examinations Fee Account pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

SEC. 41311. DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Beginning not later than the first day of the application period described in section 101(c)—

(1) the Secretary of Homeland Security, in co-operation with qualified designated entities, shall broadly disseminate information described in subsection (b); and

(2) the Secretary of Agriculture, in consultation with the Secretary of Homeland Security, shall disseminate to agricultural employers a document containing the information described in subsection (b) for posting at employer worksites.

(b) INFORMATION DESCRIBED.—The information described in this subsection shall include—

(1) the benefits that aliens may receive under this title; and

(2) the requirements that an alien must meet to receive such benefits.

SEC. 41312. EXEMPTION FROM NUMERICAL LIMITATIONS.

The numerical limitations under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) shall
not apply to the adjustment of aliens to lawful permanent
resident status under this title, and such aliens shall not
be counted toward any such numerical limitation.

SEC. 41313. REPORTS TO CONGRESS.

Not later than 180 days after the publication of the
final rule under section 122(a), and annually thereafter
for the following 10 years, the Secretary shall submit a
report to Congress that identifies, for the previous fiscal
year—

(1) the number of principal aliens who applied
for certified agricultural worker status under subtitle
A, and the number of dependent spouses and chil-
dren included in such applications;

(2) the number of principal aliens who were
granted certified agricultural worker status under
subtitle A, and the number of dependent spouses
and children who were granted certified agricultural
dependent status;

(3) the number of principal aliens who applied
for an extension of their certified agricultural worker
status under subtitle A, and the number of depend-
ent spouses and children included in such applica-
tions;

(4) the number of principal aliens who were
granted an extension of certified agricultural worker
status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status under such an extension;

(5) the number of principal aliens who applied for adjustment of status under subtitle B, and the number of dependent spouses and children included in such applications;

(6) the number of principal aliens who were granted lawful permanent resident status under subtitle B, and the number of spouses and children who were granted such status as dependents;

(7) the number of principal aliens included in petitions described in section 101(e), and the number of dependent spouses and children included in such applications; and

(8) the number of principal aliens who were granted H–2A status pursuant to petitions described in section 101(e), and the number of dependent spouses and children who were granted H–4 status.

SEC. 41314. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) Establishment.—The Secretary shall establish a program to award grants, on a competitive basis, to eligible nonprofit organizations to assist eligible applicants
under this title by providing them with the services de-
scribed in subsection (c).

(b) ELIGIBLE NONPROFIT ORGANIZATION.—For
purposes of this section, the term “eligible nonprofit orga-
nization” means an organization described in section
501(c)(3) of the Internal Revenue Code of 1986 (exclud-
ing a recipient of funds under title X of the Economic
Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that
has demonstrated qualifications, experience, and expertise
in providing quality services to farm workers or aliens.

(c) USE OF FUNDS.—Grant funds awarded under
this section may be used for the design and implementa-
tion of programs that provide—

(1) information to the public regarding the eli-
gibility and benefits of certified agricultural worker
status authorized under this title; and

(2) assistance, within the scope of authorized
practice of immigration law, to individuals submit-
ting applications for certified agricultural worker
status or adjustment of status under this title, in-
cluding—

(A) screening prospective applicants to as-

sess their eligibility for such status;
(B) completing applications, including providing assistance in obtaining necessary documents and supporting evidence; and

(C) providing any other assistance that the Secretary determines useful to assist aliens in applying for certified agricultural worker status or adjustment of status under this title.

(d) SOURCE OF FUNDS.—In addition to any funds appropriated to carry out this section, the Secretary may use up to $10,000,000 from the Immigration Examinations Fee Account under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to carry out this section.

(e) ELIGIBILITY FOR SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under title X of the Economic Opportunity Act of 1964 (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for status under this title or to an alien granted such status.

SEC. 41315. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, such sums as may be necessary to implement this title, including any amounts needed for costs associated
with the initiation of such implementation, for each of fiscal years 2024 through 2026.

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

Subtitle A—Reforming the H–2A Worker Program

SEC. 42101. COMPREHENSIVE AND STREAMLINED ELECTRONIC H–2A PLATFORM.

(a) STREAMLINED H–2A PLATFORM.—

(1) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and the United States Digital Service, shall ensure the establishment of an electronic platform through which a petition for an H–2A worker may be filed. Such platform shall—

(A) serve as a single point of access for an employer to input all information and supporting documentation required for obtaining labor certification from the Secretary of Labor and the adjudication of the H–2A petition by the Secretary of Homeland Security;
(B) serve as a single point of access for the Secretary of Homeland Security, the Secretary of Labor, and State workforce agencies to concurrently perform their respective review and adjudicatory responsibilities in the H–2A process;

(C) facilitate communication between employers and agency adjudicators, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) submit requests for inspections and licensing;

(iii) receive notices of approval and denial; and

(iv) request reconsideration or appeal of agency decisions; and

(D) provide information to the Secretary of State and U.S. Customs and Border Protection necessary for the efficient and secure processing of H–2A visas and applications for admission.

(2) OBJECTIVES.—In developing the platform described in paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of
State, and the United States Digital Service, shall streamline and improve the H–2A process, including by—

(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;

(B) eliminating redundant processes, where a single matter in a petition is adjudicated by more than one agency;

(C) reducing the occurrence of common petition errors, and otherwise improving and expediting the processing of H–2A petitions; and

(D) ensuring compliance with H–2A program requirements and the protection of the wages and working conditions of workers.

(b) ONLINE JOB REGISTRY.—The Secretary of Labor shall maintain a national, publicly accessible online job registry and database of all job orders submitted by H–2A employers. The registry and database shall—

(1) be searchable using relevant criteria, including the types of jobs needed to be filled, the date(s) and location(s) of need, and the employer(s) named in the job order;
(2) provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and

(3) provide for public access of job orders approved under section 218(h)(2) of the Immigration and Nationality Act.

SEC. 42102. AGRICULTURAL LABOR OR SERVICES.

(a) DEFINITION.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by section 8101, is further amended by adding at the end the following:

“(54) The term ‘agricultural labor or services’ has the meaning given such term by the Secretary of Agriculture in regulations and includes—

“(A) agricultural labor (as such term is defined in section 3121(g) of the Internal Revenue Code of 1986) except as described in subsection (g)(4) of such section;

“(B) agriculture (as such term is defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), except that the requirement that such work be performed by a farmer or on a farm as an incident to or in conjunction with such farming operations shall not apply if such work is being performed at the di-
rection of and as incident to or in conjunction with the farmers’ farming operation;

“(C) agricultural employment (as such term is defined in section 3 of the Migrant and Seasonal Worker Protection Act (29 U.S.C. 1802));

“(D) the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

“(E) all activities required for the preparation, processing or manufacturing, for further distribution, of—

“(i) a product of agriculture (as such term is defined in such section 3(f));

“(ii) a product of aquaculture; or

“(iii) wild-caught fish or shellfish;

“(F) pressing of apples for cider on a farm;

“(G) activities related to the management and training of equines; and

“(H) performing any of the activities described in this paragraph for an agricultural employer (as such term is defined in paragraph
(2) of section 3 of the Migrant and Seasonal Worker Protection Act (29 U.S.C. 1802), including an agricultural cooperative, except that for purposes of this subparagraph, the limitations described in paragraphs (8)(B)(ii) and (10)(B)(iii) shall not apply,

except that in regard to labor or services consisting of meat or poultry processing, the term ‘agricultural labor or services’ only includes the killing of animals and the breakdown of their carcasses.”.

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(15)(H), by striking “, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm, of a temporary or seasonal nature”; and

(2) in section 218(d)(2), by striking “of a temporary or seasonal nature”.

SEC. 42103. H–2A PROGRAM REQUIREMENTS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—
(1) in subsection (c), by striking paragraph (4);

(2) by redesignating subsection (i) as subsection (p);

(3) by inserting after subsection (h) the following:

“(i) WAGE REQUIREMENTS.—Each employer under this section will offer the worker, during the period of authorized employment, wages that are at least the greatest of—

“(1) 125 percent of the Federal minimum wage; or

“(2) the applicable State or local minimum wage.

“(j) HOUSING REQUIREMENTS.—Employers shall furnish housing in accordance with regulations established by the Secretary of Labor. Such regulations shall be consistent with the following:

“(1) IN GENERAL.—The employer shall provide housing meeting applicable State, Federal, and local standards, or secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation.

“(2) FAMILY HOUSING.—The employer shall provide family housing to workers with families who request it when it is the prevailing practice in the
area and occupation of intended employment to pro-
vide family housing.

“(3) UNITED STATES WORKERS.—Notwith-
standing paragraphs (1) and (2), an employer is not
required to provide housing to United States work-
ers who are reasonably able to return to their resi-
dence within the same day.

“(4) TIMING OF INSPECTION.—

“(A) IN GENERAL.—The Secretary of
Labor or designee shall make a determination
as to whether the housing furnished by an em-
ployer for a worker meets the requirements im-
posed by this subsection prior to the date on
which the Secretary of Labor is required to
make a certification with respect to a petition
for the admission of such worker.

“(B) TIMELY INSPECTION.—The Secretary
of Labor shall provide a process for—

“(i) an employer to request inspection
of housing up to 60 days before the date
on which the employer will file a petition
under this section; and

“(ii) biennial inspection of housing for
workers who are engaged in agricultural
employment.
“(k) Transportation Requirements.—

“(1) Travel to place of employment.—A worker who completes 50 percent of the period of employment specified in the job order shall be reimbursed by the employer for the cost of the worker’s transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

“(2) Travel from place of employment.—

For a worker who completes the period of employment specified in the job order or who is terminated without cause, the employer shall provide or pay for the worker’s transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker’s transportation and subsistence to such subsequent employer’s place of employment.

“(3) Limitation.—

“(A) Amount of reimbursement.—Except as provided in subparagraph (B), the amount of reimbursement provided under para-
graph (1) or (2) to a worker need not exceed the lesser of—

“(i) the actual cost to the worker of the transportation and subsistence involved; or

“(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(B) DISTANCE TRAVELED.—For travel to or from the worker’s home country, if the travel distance between the worker’s home and the relevant consulate is 50 miles or less, reimbursement for transportation and subsistence may be based on transportation to or from the consulate.

“(l) ELIGIBILITY FOR H–2A STATUS AND ADMISSION TO THE UNITED STATES.—

“(1) VISA VALIDITY.—A visa issued to an H–2A worker shall be valid for 3 years and shall allow for multiple entries during the approved period of admission.

“(2) PERIOD OF AUTHORIZED STAY; ADMISSION.—
“(A) IN GENERAL.—An alien admissible as an H–2A worker shall be authorized to stay in the United States for the period of employment specified in the petition approved by the Secretary of Homeland Security under this section. The maximum continuous period of authorized stay for an H–2A worker is 36 months.

“(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—In the case of an H–2A worker whose maximum continuous period of authorized stay (including any extensions) has expired, the alien may not again be eligible for such stay until the alien remains outside the United States for a cumulative period of at least 45 days.

“(C) EXCEPTIONS.—The Secretary of Homeland Security shall deduct absences from the United States that take place during an H–2A worker’s period of authorized stay from the period that the alien is required to remain outside the United States under subparagraph (B), if the alien or the alien’s employer requests such a deduction, and provides clear and convincing proof that the alien qualifies for such a deduction. Such proof shall consist of evidence
including, but not limited to, arrival and departure records, copies of tax returns, and records of employment abroad.

“(D) ADMISSION.—In addition to the maximum continuous period of authorized stay, an H–2A worker’s authorized period of admission shall include an additional period of 10 days prior to the beginning of the period of employment for the purpose of traveling to the place of employment and 45 days at the end of the period of employment for the purpose of traveling home or seeking an extension of status based on a subsequent offer of employment if the worker has not reached the maximum continuous period of authorized stay under subparagraph (A) (subject to the exceptions in subparagraph (C)).

“(3) CONTINUING H–2A WORKERS.—

“(A) SUCCESSIVE EMPLOYMENT.—An H–2A worker is authorized to start new or concurrent employment upon the filing of a nonfrivolous H–2A petition, or as of the requested start date, whichever is later if—

“(i) the petition to start new or concurrent employment was filed prior to the
expiration of the H–2A worker’s period of
admission as defined in paragraph (2)(D);
and
“(ii) the H–2A worker has not been
employed without authorization in the
United States from the time of last admis-
sion to the United States in H–2A status
through the filing of the petition for new
employment.
“(B) PROTECTION DUE TO IMMIGRANT
VISA BACKLOGS.—Notwithstanding the limita-
tions on the period of authorized stay described
in paragraph (3), any H–2A worker who—
“(i) is the beneficiary of an approved
petition, filed under section 204(a)(1)(E)
or (F) for preference status under section
203(b)(3)(A)(iii); and
“(ii) is eligible to be granted such sta-
tus but for the annual limitations on visas
under section 203(b)(3)(A),
may apply for, and the Secretary of Homeland
Security may grant, an extension of such non-
immigrant status until the Secretary of Home-
land Security issues a final administrative deci-
sion on the alien’s application for adjustment of
status or the Secretary of State issues a final
decision on the alien’s application for an immi-
grant visa.

“(m) H–2A Petition Procedures.—

“(1) In general.—The employer shall submit
information required for the adjudication of the H–
2A petition, including a job order, through the elec-
tronic platform no more than 75 calendar days and
no fewer than 60 calendar days before the employ-
er’s first date of need specified in the petition.

“(2) Filing by agricultural associations.—An association of agricultural producers
that use agricultural services may file an H–2A peti-
tion under paragraph (1). If an association is a joint
or sole employer of workers who perform agricul-
tural labor or services, H–2A workers may be used
for the approved job opportunities of any of the as-
sociation’s producer members and such workers may
be transferred among its producer members to per-
form the agricultural labor or services for which the
petition was approved.

“(3) Petitions involving staggered
entry.—An employer may file a petition involving
employment in the same occupational classification
and same area of intended employment with multiple
start dates if—

“(A) the petition involves no more than 10
start dates;

“(B) the multiple start dates share a com-
mon end date;

“(C) no more than 120 days separate the
first start date and the final start date listed in
the petition; and

“(D) the need for multiple start dates
arises from variations in labor needs associated
with the job opportunity identified in the peti-
tion.

“(4) Post-certification Amendments.—The
Secretary of Labor shall provide a process for
amending a request for labor certification in con-
junction with an H–2A petition, subsequent to cer-
tification by the Secretary of Labor, in cases in
which the requested amendment does not materially
change the petition (including the job order).

“(n) Special Procedures.—

“(1) In General.—The Secretary of Labor, in
consultation with the Secretary of Agriculture and
the Secretary of Homeland Security, may by regula-
tion establish alternate procedures that reasonably
modify program requirements under this section, in-
cluding for special procedures industries, when the
Secretary determines that such modifications are re-
quired due to the unique nature of the work in-
volved.

“(2) ALLERGY LIMITATION.—An employer en-
gaged in the commercial beekeeping or pollination
services industry may require that an applicant be
free from bee pollen, venom, or other bee-related al-
lergies.

“(3) SPECIAL PROCEDURES INDUSTRIES.—

“(A) APPLICATION.—An individual em-
ployer in a special procedures industry may file
a program petition on its own behalf or in con-
junction with an association of employers. The
employer’s petition may be part of several re-
lated petitions submitted simultaneously that
constitute a master petition.

“(B) SPECIAL PROCEDURES INDUSTRY DE-
FINED.—In this subsection, the term ‘special
procedures industry’ means—

“(i) sheepherding and goat herding;
“(ii) itinerant commercial beekeeping
and pollination;
“(iii) open range production of livestock;

“(iv) itinerant animal shearing; and

“(v) custom combining industries.”;

and

(4) in subsection (p), as so redesignated, by adding at the end the following:

“(3) TEMPORARILY.—The term ‘temporarily’ means a period not exceeding 350 days.

“(4) JOB ORDER.—The term ‘job order’ means the document containing the material terms and conditions of employment, including obligations and assurances required under this section or any other law.”.

SEC. 42104. PORTABLE H–2A VISA PILOT PROGRAM.

(a) Establishment of Pilot Program.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall establish through regulation a 6-year pilot program to facilitate the free movement and employment of H–2A workers to perform agricultural labor or services for agricultural employers registered with the Secretary of Agriculture. Not-
withstanding the requirements of section 218 of the Immigration and Nationality Act, such regulation shall establish the requirements for the pilot program, consistent with subsection (b). For purposes of this section, such a worker shall be referred to as a portable H–2A worker, and status as such a worker shall be referred to as portable H–2A status.

(2) Online Platform.—The Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall maintain an online electronic platform to connect portable H–2A workers with registered agricultural employers seeking workers to perform agricultural labor or services. Employers shall post on the platform available job opportunities, including a description of the nature and location of the work to be performed, the anticipated period or periods of need, and the terms and conditions of employment. Such platform shall allow portable H–2A workers to search for available job opportunities using relevant criteria, including the types of jobs needed to be filled and the dates and locations of need.

(3) Limitation.—Notwithstanding the issuance of the regulation described in paragraph (1), the Secretary of State may not issue a portable
H–2A visa and the Secretary of Homeland Security may not confer portable H–2A status on any alien until the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, has determined that a sufficient number of employers have been designated as registered agricultural employers under subsection (b)(1) and that such employers have sufficient job opportunities to employ a reasonable number of portable H–2A workers to initiate the pilot program.

(b) PILOT PROGRAM ELEMENTS.—The pilot program in subsection (a) shall contain the following elements:

(1) Registered agricultural employers.—

(A) Designation.—Agricultural employers shall be provided the ability to seek designation as registered agricultural employers. Reasonable fees may be assessed commensurate with the cost of processing applications for designation. A designation shall be valid for a period of up to 3 years unless revoked for failure to comply with program requirements. Registered employers that comply with program requirements may apply to renew such designa-
tion for additional periods of up to 3 years for the duration of the pilot program.

(B) LIMITATIONS.—Registered agricultural employers may employ aliens with portable H–2A status without filing a petition. Such employers shall pay such aliens at least the wage required under section 218(d) of the Immigration and Nationality Act (8 U.S.C. 1188(d)).

(C) WORKERS’ COMPENSATION.—If a job opportunity is not covered by or is exempt from the State workers’ compensation law, a registered agricultural employer shall provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker’s employment, which will provide benefits at least equal to those provided under the State workers’ compensation law.

(2) DESIGNATED WORKERS.—

(A) IN GENERAL.—Individuals who have been previously admitted to the United States in H–2A status, and maintained such status during the period of admission, shall be provided the opportunity to apply for portable H–2A status. Portable H–2A workers shall be subject to the provisions on visa validity and peri-
odds of authorized stay and admission for H–2A workers described in paragraphs (2) and (3) of section 218(j) of the Immigration and Nationality Act (8 U.S.C. 1188(j)(2) and (3)).

(B) LIMITATIONS ON AVAILABILITY OF PORTABLE H–2A STATUS.—

(i) INITIAL OFFER OF EMPLOYMENT REQUIRED.—No alien may be granted portable H–2A status without an initial valid offer of employment to perform temporary or agricultural labor or services from a registered agricultural employer.

(ii) NUMERICAL LIMITATION.—The total number of aliens who may hold valid portable H–2A status at any one time may not exceed 10,000.

(C) SCOPE OF EMPLOYMENT.—During the period of admission, a portable H–2A worker may perform agricultural labor or services for any employer in the United States that is designated as a registered agricultural employer pursuant to paragraph (1). An employment arrangement under this section may be terminated by either the portable H–2A worker or
(D) **TRANSFER TO NEW EMPLOYMENT.**— At the cessation of employment with a registered agricultural employer, a portable H–2A worker shall have 60 days to secure new employment with a registered agricultural employer.

(E) **MAINTENANCE OF STATUS.**—A portable H–2A worker who does not secure new employment with a registered agricultural employer within 60 days shall be considered to have failed to maintain such status and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1188(a)(1)(C)(i)).

(3) **ENFORCEMENT.**—The Secretary of Labor shall be responsible for conducting investigations and random audits of employers to ensure compliance with the employment-related requirements of this section, consistent with section 218(m) of the Immigration and Nationality Act (8 U.S.C. 1188(m)). The Secretary of Labor shall have the authority to collect reasonable civil penalties for viola-
tions, which shall be utilized by the Secretary for the
administration and enforcement of the provisions of
this section.

(4) Eligibility for Services.—Section 305
of Public Law 99–603 (100 Stat. 3434) is amended
by striking “other employment rights as provided in
the worker’s specific contract under which the non-
immigrant was admitted” and inserting “employ-
ment-related rights”.

(c) Report.—Not later than 6 months before the
end of the third fiscal year of the pilot program, the Sec-
retary of Homeland Security, in consultation with the Sec-
retary of Labor and the Secretary of Agriculture, shall
prepare and submit to the Committees on the Judiciary
of the House of Representatives and the Senate, a report
that provides—

(1) the number of employers designated as reg-
istered agricultural employers, broken down by geo-
graphic region, farm size, and the number of job op-
portunities offered by such employers;

(2) the number of employers whose designation
as a registered agricultural employer was revoked;

(3) the number of individuals granted portable
H–2A status in each fiscal year, along with the
number of such individuals who maintained portable
H–2A status during all or a portion of the 3-year period of the pilot program;

(4) an assessment of the impact of the pilot program on the wages and working conditions of United States farm workers;

(5) the results of a survey of individuals granted portable H–2A status, detailing their experiences with and feedback on the pilot program;

(6) the results of a survey of registered agricultural employers, detailing their experiences with and feedback on the pilot program;

(7) an assessment as to whether the program should be continued and if so, any recommendations for improving the program; and

(8) findings and recommendations regarding effective recruitment mechanisms, including use of new technology to match workers with employers and ensure compliance with applicable labor and employment laws and regulations.

SEC. 42105. PILOT PROGRAM PROVIDING FORESTRY EMPLOYERS THE OPTION OF USING THE H-2A PROGRAM OR THE H-2B PROGRAM.

(a) Time Period.—For the 3-year period following the date of enactment this Act, an employer engaged in forestry-and conservation-related services shall have, in
any calendar year and at the employer’s sole discretion,
the option to participate in either the program described
at 101(a)(15)(H)(ii)(a) of such Act (8 U.S.C.
1101(a)(15)(H)(ii)(a)) or the program described at
101(a)(15)(H)(ii)(b) of such Act (8 U.S.C.
1101(a)(15)(H)(ii)(b)).
(b) RULEMAKING.—After the expiration of the time
period specified in subsection (a), the Secretary of Labor,
in consultation with the Secretary of Agriculture, shall
make a rule determining whether employers engaged in
forestry-and conservation-related services shall be in the
future classified in the program described in section
101(a)(15)(H)(ii)(a) of the Immigration and Nationality
Act (8 U.S.C. 1101(a)(15)(H)(ii)(a), or the program de-
scribed at 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C.
1101(a)(15)(H)(ii)(b), or both.
(c) EXTENSION.—The time period described in sub-
section (a) shall be extended until such time as the regula-
tions promulgated pursuant to subsection (b) are in effect.
(d) CONDITIONS.—An employer engaged in forestry-
and conservation-related services shall be permitted to em-
ploy nonimmigrant workers under the following condi-
tions:
(1) ITINERARIES.—In either the program de-
scribed at Section 101(a)(15)(H)(ii)(a) of such Act
(8 U.S.C. 1101(a)(15)(H)(ii)(a)) or the program described at 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the employer may use an itinerary listing worksites that may encompass multiple areas of intended employment without limitation as to the number of worksites, States, or areas of intended employment.

(2) APPLICABLE WAGE.—

(A) H-2A.—In the program described in section 101(a)(15)(H)(ii)(a) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), an employer shall not be required to pay at any location a wage higher than the wage described in section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), as amended by section 42103 of this Act, for described work at that location.

(B) H-2B.—In the program described at section 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), an employer shall not be required to pay at any location a wage higher than the prevailing wage applicable to the described work at that location.

(3) HOUSING.—In either the program described at section 101(a)(15)(H)(ii)(a) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or the program de-
scribed at 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the employer may, if the employer arranges for or provides housing for its employees, use public accommodation housing or lodging that is otherwise provided on a commercial basis to the general public, and such housing or lodging shall not be subject to any federally-mandated inspection or approvals beyond the local or State standards otherwise applicable to public accommodation housing or lodging provided to the general public.

(e) FORESTRY- AND CONSERVATION-RELATED SERVICES DEFINED.—The term “forestry- and conservation-related services” includes tree planting, timber stand improvements, timber harvesting, logging operations, brush clearing, vegetation management, herbicide application, the maintenance of rights of way (including for roads, trails, and utilities, and regardless of whether such right of-way is on forest land), pruning, seedling lifting, harvesting and packaging, and the harvesting of pine straw and other minor forest products, orchard work and seed collection, and fire prevention and management activities.
DIVISION E—AMERICAN PROSPERITY AND COMPETITIVENESS

SEC. 51001. SHORT TITLE.

This division may be cited as the “American Prosperity and Competitiveness Act”.

TITLE I—PROTECTING THE FAMILY SYSTEM

Subtitle A—American Families United Act

SEC. 51101. RULE OF CONSTRUCTION.

Nothing in this division shall be construed—

(1) to provide the Secretary of Homeland Security or the Attorney General with the ability to exercise the discretionary authority provided in this division, or by an amendment made by this division, except on a case-by-case basis; or

(2) to otherwise modify or limit the discretionary authority of the Secretary of Homeland Security or the Attorney General under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))).
SEC. 51102. DISCRETIONARY AUTHORITY WITH RESPECT TO

FAMILY MEMBERS OF UNITED STATES CITIZENS.

(a) APPLICATIONS FOR RELIEF FROM REMOVAL.—

Section 240(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)) is amended by adding at the end the following:

“(D) JUDICIAL DISCRETION.—

“(i) IN GENERAL.—In the case of an alien who is the spouse or child of a citizen of the United States, the Attorney General may subject to clause (ii)—

“(I) terminate any removal proceedings against the alien;

“(II) decline to order the alien removed from the United States;

“(III) grant the alien permission to reapply for admission to the United States; or

“(IV) subject to clause (iii), waive the application of one or more grounds of inadmissibility or deportability in connection with any request for relief from removal.

“(ii) LIMITATION ON DISCRETION.—
“(I) IN GENERAL.—The Attorney General may exercise the discretion described in clause (i) if the Attorney General determines that removal of the alien or the denial of a request for relief from removal would result in hardship to the alien’s United States citizen spouse, parent, or child. There shall be a presumption that family separation constitutes hardship.

“(II) WIDOW AND SURVIVING CHILD OF DECEASED UNITED STATES CITIZEN.—In the case of the death of a citizen of the United States, the Attorney General may exercise discretion described in clause (i) with respect to an alien who was a child of such citizen, or was the spouse of such citizen and was not legally separated from such citizen on the date of the citizen’s death, if—

“(aa) the Attorney General determines that removal of the child or spouse or the denial of a requested benefit would result in
hardship to the child or spouse; and

“(bb) the child or spouse seeks relief requiring such discretion not later than two years after the date of the citizen’s death or demonstrates to the satisfaction of the Attorney General the existence of extraordinary circumstances that prevented the spouse or child from seeking relief within such period.

“(iii) Exclusions.—This subparagraph shall not apply to an alien whom the Attorney General determines—

“(I) is inadmissible under—

“(aa) paragraph (2) or (3) of section 212(a); or

“(bb) subparagraph (A), (C), or (D) of section 212(a)(10); or

“(II) is deportable under paragraph (2), (4), or (6) of section 237(a).”.
(b) SECRETARY’S DISCRETION.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by redesignating the second subsection (t) as subsection (u); and

(2) by adding at the end the following:

“(u) SECRETARY’S DISCRETION.—

“(1) IN GENERAL.—In the case of an alien who is the spouse or child of a citizen of the United States, the Secretary of Homeland Security may, subject to paragraph (2)—

“(A) waive the application of one or more grounds of inadmissibility or deportability in connection with an application for an immigration benefit or request for relief from removal;

“(B) decline to issue a notice to appear or other charging document requiring such an alien to appear for removal proceedings;

“(C) decline to reinstate an order of removal under section 241(a)(5); or

“(D) grant such alien permission to reapply for admission to the United States or any other application for an immigration benefit.

“(2) LIMITATION ON DISCRETION.—
“(A) IN GENERAL.—The Secretary of Homeland Security may exercise discretion described in paragraph (1) if the Secretary determines that removal of the alien or the denial of a requested benefit would result in hardship to the alien’s United States citizen spouse, parent, or child. There shall be a presumption that family separation constitutes hardship.

“(B) WIDOW AND ORPHAN OF DECEASED UNITED STATES CITIZEN.—In the case of the death of a citizen of the United States, the Secretary of Homeland Security may exercise discretion described in paragraph (1) with respect to an alien who was a child of such citizen, or was the spouse of such citizen and was not legally separated from such citizen on the date of the citizen’s death, if—

“(i) the Secretary determines that the denial of a requested benefit would result in hardship to the child or spouse; and

“(ii) the child or spouse seeks relief requiring such discretion not later than two years after the date of the citizen’s death or demonstrates to the satisfaction of the Secretary the existence of extraor-
ordinary circumstances that prevented the
spouse or child from seeking relief within
such period.

“(3) EXCLUSIONS.—This subsection shall not
apply to an alien whom the Secretary determines—
“(A) is inadmissible under—
“(i) paragraph (2) or (3) of sub-
sections (a); or
“(ii) subparagraphs (A), (C), or (D)
of subsection (a)(10); or
“(B) is deportable under paragraphs (2),
(4), or (6) of section 237(a).”.

(c) NATIONALITY AT BIRTH AND COLLECTIVE NATU-
RALIZATION.—Section 301(g) of the Immigration and Na-
tionality Act (8 U.S.C. 1401(g)) is amended by striking
“for a period or periods totaling not less than five years,
at least two of which were after attaining the age of four-
teen years”.

SEC. 51103. MOTIONS TO REOPEN OR RECONSIDER.

(a) IN GENERAL.—A motion to reopen or reconsider
the denial of a petition or application or an order of re-
moval for an alien may be granted if such petition, appli-
cation, or order would have been adjudicated in favor of
the alien had this division, or an amendment made by this
division, been in effect at the time of such denial or order.
(b) FILING REQUIREMENT.—A motion under subsection (a) shall be filed no later than the date that is 2 years after the date of the enactment of this division, unless the alien demonstrates to the satisfaction of the Secretary of Homeland Security or Attorney General, as appropriate, the existence of extraordinary circumstances that prevented the alien from filing within such period.

Subtitle B—Temporary Family Visitation Act

SEC. 51111. FAMILY PURPOSE NONIMMIGRANT VISAS FOR RELATIVES OF UNITED STATES CITIZENS AND LAWFUL PERMANENT RESIDENTS SEEKING TO ENTER THE UNITED STATES TEMPORARILY.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA CATEGORY.—Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amended by striking “and who is visiting the United States temporarily for business or temporarily for pleasure;” and inserting “and who is visiting the United States temporarily for—

“(i) business;

“(ii) pleasure; or

“(iii) family purposes;”.

May 22, 2023 (8:36 p.m.)
(b) Requirements Applicable to Family Purpose Visas.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

“(s) Requirements Applicable to Family Purpose Visas.—

“(1) Definitions.—In this subsection and section 101(a)(15)(B)(iii):

“(A) Family purposes.—The term ‘family purposes’ means any visit by a relative for a social, occasional, or any other purpose.

“(B) Relative.—The term ‘relative’ means the spouse, child, son, daughter, grandchild, parent, grandparent, sibling, uncle, aunt, niece, and nephew of a citizen of the United States or an alien lawfully admitted for permanent residence.

“(2) Requirement.—A relative seeking admission pursuant to a visa issued under section 101(a)(15)(B)(iii) is inadmissible unless—

“(A) the individual petitioning for such admission, or an additional sponsor, has submitted to the Secretary of Homeland Security an undertaking under section 213 in the form of a declaration of support (Form I–134); and
“(B) such relative has obtained, for the duration of his or her stay in the United States, a health insurance policy (such as an additional travel health insurance policy or an existing health insurance policy that includes travel health care costs) with minimum policy requirements, as determined by the Secretary.

“(3) PERIOD OF AUTHORIZED ADMISSION.—The period of authorized admission for a non-immigrant described in section 101(a)(15)(B)(iii) shall not exceed 90 days.

“(4) PETITIONER REQUIREMENT.—

“(A) IN GENERAL.—An individual may not petition for the admission of a relative as a nonimmigrant described in section 101(a)(15)(B)(iii) if the individual previously petitioned for the admission of such a relative who—

“(i) was admitted to the United States pursuant to a visa issued under that section as a result; and

“(ii) overstayed his or her period of authorized admission.

“(B) PREVIOUS PETITIONERS.—An individual petitioning for the admission of a relative
as a nonimmigrant described in section 101(a)(15)(B)(iii) who has previously petitioned for such a relative shall submit to the Secretary of Homeland Security evidence demonstrating that the relative on behalf of whom the individual previously petitioned did not overstay his or her period of authorized admission.”

(c) RESTRICTION ON CHANGE OF STATUS.—Section 248(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1258(a)(1)) is amended to read as follows:

“(1) an alien classified as a nonimmigrant under subparagraph (B)(iii), (C), (D), (K), or (S) of section 101(a)(15),”.

(d) FAMILY PURPOSE VISA ELIGIBILITY WHILE AWAITING IMMIGRANT VISA.—Notwithstanding section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)), a nonimmigrant described in section 101(a)(15)(B)(iii) of that Act who has been classified as an immigrant under section 201 of that Act (8 U.S.C. 1151) and is awaiting the availability of an immigrant visa subject to the numerical limitations under section 203 of that Act (8 U.S.C. 1153) may be admitted pursuant to a family purpose visa, in accordance with section 214(s) of that Act, if the individual is otherwise eligible for admission.
Subtitle C—Spouses or Children of an Alien Lawfully Admitted for Permanent Residence Uncapped

SEC. 51131. SPOUSES OR CHILDREN OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.

Section 201(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)) is amended by adding at the end the following:

“(C) SPOUSES OR CHILDREN OF AN ALIEN LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—Aliens who are the spouses or children of an alien lawfully admitted for permanent residence”.

SEC. 51132. PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended as follows:

(1) In subsection (a)(1), by striking “23,400” and inserting “111,300”.

(2) In subsection (a)(2), to read as follows:

“(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of an alien law-
fully admitted for permanent residence, shall be allocated visas in a number not to exceed 26,300, plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1).”.

TITLE II—FAIRNESS FOR IMMIGRANTS

SEC. 51201. ELIMINATION OF BACKLOGS.

Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

“(F) Aliens who are beneficiaries (including derivative beneficiaries) of an approved immigrant visa petition bearing a priority date that is more than 10 years before the alien submits an application for an immigrant visa or for adjustment of status.”.

SEC. 51202. PER-COUNTRY CAPS RAISED.

Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended by striking “7 percent” and inserting “15 percent”.

SEC. 51203. PROTECTING THE STATUS OF CHILDREN AFFECTED BY DELAYS IN VISA AVAILABILITY.

Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the immigrant visa petition that is the basis for the alien’s adjustment of status or immigrant visa application is filed on behalf of such alien (or, in the case of subsection (d), the date on which an immigrant visa petition is filed on behalf of the alien’s parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of the date on which an immigrant visa number becomes available for such alien and only if such petition is approved.”.

SEC. 51204. SPOUSES AND MINOR CHILDREN NOT INCLUDED IN CALCULATION.

Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)), as amended by this division, is further amended by adding at the end the following:
“(G) Aliens described in section 203(d) if accompanying or following to join their spouse or parent.”.

TITLE III—IMPROVING EMPLOYMENT BASED VISAS

Subtitle A—H–4 Work Authorization Act

SEC. 51301. EMPLOYMENT AUTHORIZATION FOR CERTAIN ALIEN SPOUSES.

Section 214(e) of the Immigration and Nationality Act (8 U.S.C. 1184(e)) is amended by adding at the end the following:

“(3) In the case of an alien spouse admitted under section 101(a)(15)(H)(i)(b), who is accompanying or following to join a principal alien admitted under such section, the Secretary of Homeland Security shall authorize the alien spouse to engage in employment in the United States incident to status (including pursuant to timely-filed extension of stay application) and provide the spouse with an ‘employment authorized’ endorsement or other appropriate work permit.”.
Subtitle B—Improving Employment Based Visas

SEC. 51311. REPEAL OF FICA EXCEPTION FOR CERTAIN NONRESIDENTS TEMPORARILY PRESENT IN THE UNITED STATES.

(a) In General.—Section 3121(b)(19) of the Internal Revenue Code of 1986 is amended by striking “(F),” each place it appears.

(b) Effective Date.—The amendment made by this section shall apply to services performed in calendar quarters beginning after the date of the enactment of this division.

SEC. 51312. INDIVIDUALS WITH DOCTORAL DEGREES IN STEM FIELDS RECOGNIZED AS INDIVIDUALS HAVING EXTRAORDINARY ABILITY.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act (INA) is amended by inserting after “extensive documentation” the following: “or, with regard to a field of science, technology, engineering, or mathematics, has earned a doctoral degree in at least one of such fields, in a health profession, or in a related program, from an institution of higher education in the United States (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)))”. 
TITLE IV—STUDENT VISAS

SEC. 51401. MODERNIZING VISAS FOR STUDENTS.


(1) by striking “having a residence in a foreign country which he has no intention of abandoning,”;

(2) by striking “and solely”; and

(3) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”.

(b) Dual Intent.—Section 214(h) of the Immigration and Nationality Act (8 U.S.C. 1184(h)) is amended to read as follows:

“(h) Dual Intent.—The fact that an alien is, or intends to be, the beneficiary of an application for a preference status filed under section 204, seeks a change or adjustment of status after completing a legitimate period of nonimmigrant stay, or has otherwise sought permanent residence in the United States shall not constitute evidence of intent to abandon a foreign residence that would preclude the alien from obtaining or maintaining—

“(1) a visa or admission as a nonimmigrant described in subparagraph (E), (F)(i), (F)(ii),
(H)(i)(b), (H)(i)(c), (L), (O), (P), (R), (V), or (W)
of section 101(a)(15); or
“(2) the status of a nonimmigrant described in
any such subparagraph.”.

TITLE V—SURGING RESOURCES
TO EXPEDITE VISA PROCESSING

SEC. 51501. SURGING RESOURCES TO EXPEDITE VISA PROCESSING.

(a) COORDINATOR.—The Secretary of State, Secretary of Labor, and Secretary of Homeland Security shall jointly appoint an Immigration Agency Coordinator to oversee the immigration functions at United States Citizenship and Immigration Services, the Department of Labor, and the Department of State.

(b) DUTIES.—It shall be the duty of the Immigration Agency Coordinator—

(1) to provide recommendations to harmonize
agency efforts with respect to filing immigration petitions, visas, and labor certifications; and

(2) to work to ensure filing information from
each agency is available to the other agencies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to be appropriated for fiscal year 2024—
(1) 2,560,000,000 to the Operations and Support Account at United States Citizenship and Immigration Services;

(2) $825,000,000 to the Bureau of Consular Affairs and Visa Service at the Department of State; and

(3) $225,000,000 to the Office of Foreign Labor Certification at the U.S. Department of Labor.