

.....
(Original Signature of Member)

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.

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

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

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

8 (b) TABLE OF CONTENTS.—The table of contents for
9 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. 1127. Homeland Security Investigations Innovation Lab.

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. 1148. Body Worn Camera Pilot Program Authorization.

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.

1 **DIVISION A—BORDER SECURITY**
2 **FOR AMERICA ACT**

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

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

6 **TITLE I—BORDER SECURITY**

7 **SEC. 1101. DEFINITIONS.**

8 In this title:

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

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

18 (3) **HIGH TRAFFIC AREAS.**—The term “high
19 traffic areas” has the meaning given such term in

1 section 102(e)(1) of the Illegal Immigration Reform
2 and Immigrant Responsibility Act of 1996, as
3 amended by section 1111 of this division.

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

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

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

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

21 (8) TRANSIT ZONE.—The term “transit zone”
22 has the meaning given such term in section
23 1092(a)(8) of the National Defense Authorization
24 Act for Fiscal Year 2017 (Public Law 114–328; 6
25 U.S.C. 223(a)(7)).

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

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

11 **Subtitle A—Infrastructure and** 12 **Equipment**

13 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-** 14 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

20 “(a) IN GENERAL.—The Secretary of Homeland Se-
21 curity shall take such actions as may be necessary (includ-
22 ing the removal of obstacles to detection of illegal en-
23 trants) to design, test, construct, install, deploy, integrate,
24 and operate physical barriers, tactical infrastructure, and
25 technology in the vicinity of the United States border to

1 achieve situational awareness and operational advantage
2 of the border and deter, impede, and detect illegal activity
3 in high traffic areas.”;

4 (2) in subsection (b)—

5 (A) in the subsection heading, by striking
6 “FENCING AND ROAD IMPROVEMENTS” and in-
7 serting “PHYSICAL BARRIERS”;

8 (B) in paragraph (1)—

9 (i) in subparagraph (A)—

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

12 (II) by striking “roads, lighting,
13 cameras, and sensors” and inserting
14 “tactical infrastructure, and tech-
15 nology”; and

16 (III) by striking “gain” and in-
17 serting “achieve situational awareness
18 and”;

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

21 “(B) PHYSICAL BARRIERS AND TACTICAL
22 INFRASTRUCTURE.—The Secretary, in carrying
23 out this section, shall deploy along the United
24 States border the most practical and effective
25 physical barriers and tactical infrastructure

1 available for achieving situational awareness
2 and operational advantage of the border.”;

3 (iii) in subparagraph (C)—

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

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

18 (II) in clause (ii)—

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

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

24 “(II) delay the transfer to the
25 United States of the possession of

1 property or affect the validity of any
2 property acquisition by the United
3 States by purchase or eminent do-
4 main, or to otherwise affect the emi-
5 nent domain laws of the United States
6 or of any State; or”;

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

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

11 (iv) by striking subparagraph (D);

12 (C) in paragraph (2)—

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

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

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

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

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

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

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

13 (3) in subsection (c)—

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

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Secretary of Homeland Security
18 shall have the authority to waive all legal require-
19 ments the Secretary determines necessary to ensure
20 the expeditious design, testing, construction, instal-
21 lation, deployment, integration, and operation of the
22 physical barriers, tactical infrastructure, and tech-
23 nology under this section. Such waiver authority
24 shall also apply with respect to any maintenance car-
25 ried out on such physical barriers, tactical infra-

1 structure, or technology. Any such decision by the
2 Secretary shall be effective upon publication in the
3 Federal Register.”;

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

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

8 “(2) NOTIFICATION.—Not later than 7 days
9 after the date on which the Secretary of Homeland
10 Security exercises the waiver authority under para-
11 graph (1), the Secretary shall notify the Committee
12 on Homeland Security of the House of Representa-
13 tives and the Committee on Homeland Security and
14 Governmental Affairs of the Senate of such waiver.”;
15 and

16 (4) by adding at the end the following new sub-
17 sections:

18 “(e) TECHNOLOGY.—The Secretary of Homeland Se-
19 curity, in carrying out this section, shall deploy along the
20 United States border the most practical and effective tech-
21 nology available for achieving situational awareness and
22 operational advantage of the border.

23 “(f) DEFINITIONS.—In this section:

24 “(1) ADVANCED UNATTENDED SURVEILLANCE
25 SENSORS.—The term ‘advanced unattended surveil-

1 lance sensors’ means sensors that utilize an onboard
2 computer to analyze detections in an effort to dis-
3 cern between vehicles, humans, and animals, and ul-
4 timately filter false positives prior to transmission.

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

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

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

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

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

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

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

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

7 “(A) Tower-based surveillance technology.

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

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

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

15 “(E) Advanced unattended surveillance
16 sensors.

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

19 “(G) Unmanned aircraft systems.

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

22 “(8) UNMANNED AIRCRAFT SYSTEM.—The term
23 ‘unmanned aircraft system’ has the meaning given
24 such term in section 44801 of title 49, United
25 States Code.”.

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

2 (a) AIR AND MARINE OPERATIONS FLIGHT
3 HOURS.—The Secretary shall ensure that not fewer than
4 95,000 annual flight hours are carried out by Air and Ma-
5 rine Operations of CBP.

6 (b) UNMANNED AIRCRAFT SYSTEMS.—The Sec-
7 retary, after coordination with the Administrator of the
8 Federal Aviation Administration, shall ensure that Air and
9 Marine Operations operate unmanned aircraft systems on
10 the southern border of the United States for not less than
11 24 hours per day for 7 days per week.

12 (c) PRIMARY MISSIONS.—The Commissioner shall
13 ensure that—

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

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

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

20 (2) the Executive Assistant Commissioner of
21 Air and Marine Operations assigns the greatest pri-
22 ority to support missions outlined under paragraph
23 (1).

24 (d) HIGH DEMAND FLIGHT HOUR REQUIRE-
25 MENTS.—The Commissioner shall ensure that U.S. Bor-
26 der Patrol Sector Chiefs—

1 (1) identify air support mission-critical hours;

2 and

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

6 (e) CONTRACT AIR SUPPORT AUTHORIZATIONS.—

7 The Commissioner shall contract for the unfulfilled air
8 support mission-critical hours, as identified pursuant to
9 subsection (d).

10 (f) SMALL UNMANNED AIRCRAFT SYSTEMS.—

11 (1) IN GENERAL.—The Chief of the U.S. Bor-
12 der Patrol shall be the executive agent with respect
13 to the use of small unmanned aircraft systems by
14 CBP for the purpose of—

15 (A) meeting the unmet flight hour oper-
16 ational requirements of the U.S. Border Patrol;
17 and

18 (B) achieving situational awareness and
19 operational advantage.

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

23 (A) flight operations with the Adminis-
24 trator of the Federal Aviation Administration to

1 ensure the safe and efficient operation of the
2 National Airspace System; and

3 (B) with the Executive Assistant Commis-
4 sioner for Air and Marine Operations of CBP
5 to—

6 (i) ensure the safety of other CBP
7 aircraft flying in the vicinity of small un-
8 manned aircraft systems operated by the
9 U.S. Border Patrol; and

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

13 (3) CONFORMING AMENDMENT.—Paragraph (3)
14 of section 411(e) of the Homeland Security Act of
15 2002 (6 U.S.C. 211(e)) is amended—

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

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

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

22 “(C) carry out the small unmanned air-
23 craft system (as such term is defined in section
24 44801 of title 49, United States Code) require-
25 ments pursuant to subsection (f) of section

1 1113 of the Border Security for America Act;
2 and”.

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

11 (h) DEFINITIONS.—In this section:

12 (1) GOT AWAY.—The term “got away” has the
13 meaning given such term in section 1092(a)(3) of
14 the National Defense Authorization Act for Fiscal
15 Year 2017 (Public Law 114–328; 6 U.S.C.
16 223(a)(3)).

17 (2) TRANSIT ZONE.—The term “transit zone”
18 has the meaning given such term in section
19 1092(a)(8) of the National Defense Authorization
20 Act for Fiscal Year 2017 (Public Law 114–328; 6
21 U.S.C. 223(a)(8)).

1 **SEC. 1113. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

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

6 **“SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM**
7 **MANAGEMENT.**

8 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
9 this section, the term ‘major acquisition program’ means
10 an acquisition program of the Department that is esti-
11 mated by the Secretary to require an eventual total ex-
12 penditure of at least \$300,000,000 (based on fiscal year
13 2023 constant dollars) over its life-cycle cost.

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

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

21 “(2) document that each such program is satis-
22 fying cost, schedule, and performance thresholds as
23 specified in such baseline, in compliance with rel-
24 evant departmental acquisition policies and the Fed-
25 eral Acquisition Regulation; and

1 “(3) have a plan for satisfying program imple-
2 mentation objectives by managing contractor per-
3 formance.

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

15 “(d) PLAN.—The Secretary, acting through the
16 Under Secretary for Management, in coordination with
17 the Under Secretary for Science and Technology and the
18 Commissioner of U.S. Customs and Border Protection,
19 shall submit to the Committee on Homeland Security of
20 the House of Representatives and the Committee on
21 Homeland Security and Governmental Affairs of the Sen-
22 ate a plan for testing, evaluating, and using independent
23 verification and validation of resources relating to the pro-
24 posed acquisition of border security technology. Under
25 such plan, the proposed acquisition of new border security

1 technologies shall be evaluated through a series of assess-
2 ments, processes, and audits to ensure—

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

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

7 (b) CLERICAL AMENDMENT.—The table of contents
8 in section 1(b) of the Homeland Security Act of 2002 is
9 amended by striking the items relating to sections 435 and
10 436 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.”.

11 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
12 OF APPROPRIATIONS.—No additional funds are author-
13 ized to be appropriated to carry out section 437 of the
14 Homeland Security Act of 2002, as added by subsection
15 (a).

16 **SEC. 1114. LANDOWNER AND RANCHER SECURITY EN-**
17 **HANCEMENT.**

18 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
19 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
20 lish a National Border Security Advisory Committee,
21 which—

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

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

7 (B) discussing ways to improve the secu-
8 rity of high traffic areas along the northern
9 border and the southern border; and

10 (2) may provide, through the Secretary, rec-
11 ommendations to Congress.

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

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

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

22 (2) lives and works in the United States within
23 80 miles from the southern border or the northern
24 border.

1 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
2 COMMITTEE ACT.—The Federal Advisory Committee Act
3 (5 U.S.C. App.) shall not apply to the National Border
4 Security Advisory Committee.

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

7 (a) IN GENERAL.—The Secretary, in coordination
8 with the heads of the relevant Federal, State, and local
9 agencies, shall begin eradicating the carrizo cane plant
10 and any salt cedar along the Rio Grande River that im-
11 pedes border security operations.

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

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

20 (a) SOUTHER BORDER THREAT ANALYSIS.—

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

1 Affairs of the Senate a Southern border threat anal-
2 ysis.

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

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

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

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

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

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

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

1 (E) the current percentage of operational
2 advantage achieved by the Department on the
3 Southern border; and

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

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

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

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

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

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

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

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

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

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

15 (b) IN GENERAL.—Not later than one year after the
16 date of enactment of this section and every 2 years there-
17 after, the Secretary, acting through the Chief of the U.S.
18 Border Patrol, shall issue a Border Patrol Strategic Plan
19 (referred to in this section as the “plan”) to enhance the
20 security of the international borders of the United States.

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

22 (1) A consideration of Border Patrol Capability
23 Gap Analysis reporting, Border Security Improve-
24 ment Plans, and any other strategic document au-
25 thored by the U.S. Border Patrol to address security

1 gaps with respect to ports of entry, including efforts
2 to mitigate threats identified in such analyses, plans,
3 and documents.

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

8 (3) Information relating to efforts by U.S. Bor-
9 der Patrol to—

10 (A) increase situational awareness, includ-
11 ing—

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

17 (ii) the use of manned aircraft and
18 unmanned aircraft systems;

19 (B) detect and prevent terrorists and in-
20 struments of terrorism from entering the
21 United States;

22 (C) detect, interdict, and disrupt human
23 smuggling, human trafficking, drug trafficking
24 and other illicit cross-border activity;

1 (D) focus intelligence collection to disrupt
2 transnational criminal organizations outside of
3 the international and maritime borders of the
4 United States; and

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

8 (4) Information relating to initiatives of the De-
9 partment with respect to operational coordination,
10 including any relevant task forces of the Depart-
11 ment.

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

15 (6) A description of cooperative agreements re-
16 lating to information sharing with State, local, Trib-
17 al, territorial, and other Federal law enforcement
18 agencies that have jurisdiction on the border.

19 (7) Information relating to border security in-
20 formation received from—

21 (A) State, local, Tribal, territorial, and
22 other Federal law enforcement agencies that
23 have jurisdiction on the border or in the mari-
24 time environment; and

1 (B) border community stakeholders, in-
2 cluding representatives from—

3 (i) border agricultural and ranching
4 organizations; and

5 (ii) business and civic organizations.

6 (8) Information relating to the staffing require-
7 ments with respect to border security for the De-
8 partment.

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

12 (10) An assessment of training programs, in-
13 cluding such programs relating to—

14 (A) identifying and detecting fraudulent
15 documents;

16 (B) understanding the scope of CBP en-
17 forcement authorities and appropriate use of
18 force policies; and

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

22 (d) NORTHERN BORDER THREAT ANALYSIS.—Not
23 later than 180 days after the date of the enactment of
24 this Act, the Secretary shall submit to the Committee on
25 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 **SEC. 1117. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
6 **PROTECTION.**

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

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

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

14 (3) by inserting after paragraph (18) the fol-
15 lowing new paragraphs:

16 “(19) administer the U.S. Customs and Border
17 Protection public private partnerships under subtitle
18 G;

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

24 “(21) authorize preclearance operations under
25 the Preclearance Authorization act of 2015 (19

1 U.S.C. 4431 et seq.; enacted as subtitle B of title
2 VIII of the Trade Facilitation and Trade Enforce-
3 ment Act of 2015; 19 U.S.C. 4301 et seq.) to be
4 conducted at land ports of entry; and”.

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

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

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

22 (d) DEFINITION.—Subsection (r) of section 411 of
23 the Homeland Security Act of 2002 (6 U.S.C. 211) is
24 amended—

1 (1) by striking “this section, the terms” and in-
2 sserting the following: “this section:

3 “(1) the terms”;

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

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

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

14 **SEC. 1118. AGENT AND OFFICER TECHNOLOGY USE.**

15 In carrying out section 102 of the Illegal Immigration
16 Reform and Immigrant Responsibility Act of 1996 (as
17 amended by section 1111 of this division) and section
18 1113 of this division, the Secretary shall, to the greatest
19 extent practicable, ensure that technology deployed to gain
20 situational awareness and operational advantage of the
21 border be provided to front-line officers and agents of the
22 Department of Homeland Security.

23 **SEC. 1119. TUNNEL TASK FORCES.**

24 The Secretary is authorized to establish Tunnel Task
25 Forces for the purposes of detecting and remediating tun-

1 nels that breach the international border of the United
2 States.

3 **SEC. 1120. PILOT PROGRAM ON USE OF ELECTRO-**
4 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
5 **DER SECURITY OPERATIONS.**

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

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

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

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

1 (b) REPORT TO CONGRESS.—Not later than 180 days
2 after the conclusion of the pilot program conducted under
3 subsection (a), the Commissioner shall submit to the Com-
4 mittee on Homeland Security and the Committee on En-
5 ergy and Commerce of the House of Representatives and
6 the Committee on Homeland Security and Governmental
7 Affairs and the Committee on Commerce, Science, and
8 Transportation of the Senate a report on the findings and
9 data derived from such program.

10 **SEC. 1121. FOREIGN MIGRATION ASSISTANCE.**

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

16 **“SEC. 439. FOREIGN MIGRATION ASSISTANCE.**

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

22 “(b) DETERMINATION.—Assistance provided under
23 subsection (a) may be provided only if such assistance
24 would enhance the recipient government’s capacity to ad-
25 dress irregular migration flows that may affect the United

1 States, including through related detention or removal op-
2 erations by the recipient government, including procedures
3 to screen and provide protection for certain individuals.

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

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

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

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

18 “(e) EFFECTIVE PERIOD.—The authority provided
19 under this section shall remain in effect until September
20 30, 2028.

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

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

4 “(h) **AUTHORIZATION OF APPROPRIATIONS.**—In ad-
5 dition to amounts otherwise authorized to be appropriated
6 for such purpose, there is authorized to be appropriated
7 \$50,000,000 for fiscal years 2024 through 2028 to carry
8 out this section.”.

9 (b) **CLERICAL AMENDMENT.**—The table of contents
10 in section 1(b) of the Homeland Security Act of 2002 is
11 amended by inserting after the item relating to section
12 438 the following new item:

“Sec. 439. Foreign migration assistance.”.

13 **SEC. 1122. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
14 **MIGRATION ALERT PROGRAM.**

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

18 **“SEC. 447. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
19 **MIGRATION ALERT PROGRAM.**

20 “(a) **ESTABLISHMENT.**—There is established in the
21 Department a program to be known as the Biometric
22 Identification Transnational Migration Alert Program (re-
23 ferred to in this section as ‘BITMAP’) to address and re-
24 duce national security, border security, and public safety

1 threats before such threats reach the international border
2 of the United States.

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

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

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

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

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

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

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

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

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

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

22 “(d) COORDINATION.—The Secretary shall coordi-
23 nate with the Secretary of State, appropriate representa-
24 tives of foreign governments, and the heads of other Fed-

1 eral agencies, as appropriate, to carry out paragraph (1)
2 of subsection (b).

3 “(e) AGREEMENTS.—Before carrying out BITMAP
4 operations in a foreign country that, as of the date of the
5 enactment of this section, was not a partner country de-
6 scribed in this section, the Secretary, with the concurrence
7 of the Secretary of State, shall enter into an agreement
8 or arrangement with the government of such country that
9 outlines such operations in such country, including related
10 departmental operations. Such country shall be a partner
11 country described in this section pursuant to and for pur-
12 poses of such agreement or arrangement.

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

22 “(1) the identification of the foreign country
23 with which the Secretary intends to enter into such
24 an agreement;

1 security technology stakeholders, shall submit to the ap-
2 propriate congressional committees a strategic 5-year
3 technology investment plan (in this section to be referred
4 to as the “plan”). The plan may include a classified annex,
5 if appropriate.

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

8 (1) An analysis of security risks with respect to
9 ports of entry along the northern and southern bor-
10 ders of the United States.

11 (2) An identification of capability gaps with re-
12 spect to security at such ports of entry.

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

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

18 (B) are unlawfully present in the United
19 States.

20 (4) A description of security-related technology
21 acquisitions that are listed in order of priority to ad-
22 dress the security risks and capability gaps identi-
23 fied pursuant to paragraphs (1) and (2), respec-
24 tively.

1 (5) A description of each planned security-re-
2 lated technology program, including objectives, goals,
3 and timelines for each such program.

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

7 (7) A description of the test, evaluation, mod-
8 eling, and simulation capabilities, including target
9 methodologies, rationales, and timelines, necessary
10 to support the acquisition of security-related tech-
11 nologies pursuant to paragraph (4).

12 (8) An identification and assessment of ways to
13 increase opportunities for communication and col-
14 laboration with industry, small and disadvantaged
15 businesses, intra-government entities, university cen-
16 ters of excellence, and national laboratories to en-
17 sure CBP understands the market for security-re-
18 lated technologies that are available to satisfy its
19 mission needs before engaging in an acquisition of a
20 security-related technology.

21 (9) An assessment of the management of
22 planned security-related technology programs by the
23 acquisition workforce of CBP.

1 (10) An identification of ways to leverage al-
2 ready-existing acquisition expertise within the Fed-
3 eral Government.

4 (11) A description of the security resources, in-
5 cluding information security resources, that will be
6 required to protect security-related technology from
7 physical or cyber theft, diversion, sabotage, or at-
8 tack.

9 (12) A description of initiatives to—

10 (A) streamline the acquisition process of
11 CBP; and

12 (B) provide greater predictability and clar-
13 ity, with respect to such process, to small, me-
14 dium, and large businesses, including informa-
15 tion relating to the timeline for testing and
16 evaluation.

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

20 (14) In the case of a new acquisition leading to
21 the removal of equipment from a port of entry along
22 the northern or southern border of the United
23 States, a strategy to consult with industry and com-
24 munity stakeholders affected by such removal.

1 (15) A strategy to consult with industry and
2 community stakeholders with respect to security im-
3 pacts at a port of entry described in paragraph (14).

4 (c) LEVERAGING THE PRIVATE SECTOR.—To the ex-
5 tent practicable, the plan shall—

6 (1) leverage to the greatest extent possible
7 emerging technological trends, and research and de-
8 velopment trends, within the public and private sec-
9 tors;

10 (2) incorporate input from the private sector,
11 including from border and port security stake-
12 holders, through requests for information, industry
13 day events, and other innovative means consistent
14 with the Federal Acquisition Regulation; and

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

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

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

23 (f) DISCLOSURE.—The plan shall include a list of the
24 names of individuals not employed by the Federal Govern-
25 ment who contributed to the development of the plan.

1 (g) UPDATE AND REPORT.—Not later than the date
2 that is two years after the date on which the plan is sub-
3 mitted to the appropriate congressional committees pursu-
4 ant to subsection (a) and biennially thereafter for ten
5 years, the Commissioner shall submit to the appropriate
6 congressional committees—

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

8 (2) a report that includes—

9 (A) the extent to which each security-re-
10 lated technology acquired by CBP since the ini-
11 tial submission of the plan or most recent up-
12 date of the plan, as the case may be, is con-
13 sistent with the planned technology programs
14 and projects identified pursuant to subsection
15 (b)(5); and

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

18 (h) DEFINITIONS.—In this section:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means—

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

24 (B) the Committee on Homeland Security
25 and Governmental Affairs of the Senate.

1 (2) COVERED OFFICIALS.—The term “covered
2 officials” means—

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

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

7 (C) the Chief Information Officer of the
8 Department.

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

13 **SEC. 1124. COMMERCIAL SOLUTIONS OPENING ACQUISSI-**
14 **TION PROGRAM.**

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

22 (b) TREATMENT AS COMPETITIVE PROCEDURES.—
23 Use of general solicitation competitive procedures for the
24 program shall be considered to be use of competitive pro-

1 cedures for purposes of division C of title 41, United
2 States Code.

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

6 (d) GUIDANCE.—The Commissioner, in consultation
7 with the Under Secretary for Management of the Depart-
8 ment, shall—

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

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

13 (e) REPORT.—

14 (1) IN GENERAL.—The Commissioner shall sub-
15 mit to the appropriate congressional committees a
16 report relating to the activities of the program as an
17 addendum to the annual budget request submission
18 of the Commissioner.

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

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

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

25 (i) the program; and

1 (ii) other competitive procedures that
2 do not rely on general solicitations; and

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

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

9 (g) DEFINITIONS.—In this section:

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

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

16 (A) technology, process, or method, includ-
17 ing research and development; or

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

20 **SEC. 1125. U.S. CUSTOMS AND BORDER PROTECTION TECH-**
21 **NOLOGY UPGRADES.**

22 (a) SECURE COMMUNICATIONS.—The Commissioner
23 shall ensure that each CBP officer or agent, if appro-
24 priate, is equipped with a secure radio or other two-way

1 communication device that allows each such officer or
2 agent to communicate—

3 (1) between ports of entry and inspection sta-
4 tions; and

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

7 (b) BORDER SECURITY DEPLOYMENT PROGRAM.—

8 (1) EXPANSION.—Not later than 1 year after
9 the enactment of this Act, the Commissioner shall
10 fully implement the Border Security Deployment
11 Program of CBP and expand the integrated surveil-
12 lance and intrusion detection system at land ports of
13 entry along the northern and southern borders of
14 the United States.

15 (2) AUTHORIZATION OF APPROPRIATIONS.—In
16 addition to amounts otherwise authorized to be ap-
17 propriated for such purpose, there is authorized to
18 be appropriated \$33,000,000 for fiscal years 2024
19 and 2025 to carry out paragraph (1).

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

22 (1) UPGRADE.—Not later than two years after
23 the date of the enactment of this section, the Com-
24 missioner shall upgrade all existing license plate
25 readers in need of upgrade, as determined by the

1 Commissioner, on the northern and southern borders
2 of the United States.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—In
4 addition to amounts otherwise authorized to be ap-
5 propriated for such purpose, there is authorized to
6 be appropriated \$125,000,000 for fiscal years 2024
7 and 2025 to carry out paragraph (1).

8 (d) BIOMETRIC EXIT DATA SYSTEM.—

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

13 **“SEC. 420. BIOMETRIC EXIT DATA SYSTEM.**

14 **“(a) ESTABLISHMENT.—The Secretary shall—**

15 **“(1) not later than 180 days after the date of**
16 **the enactment of this section, submit to the Com-**
17 **mittee on Homeland Security and the Committee on**
18 **the Judiciary of the House of Representatives and**
19 **the Committee on Homeland Security and Govern-**
20 **mental Affairs and the Committee on the Judiciary**
21 **of the Senate an implementation plan to establish a**
22 **biometric exit data system to complete the inte-**
23 **grated biometric entry and exit data system required**
24 **under section 7208 of the Intelligence Reform and**

1 Terrorism Prevention Act of 2004 (8 U.S.C. 1365b),
2 including—

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

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

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

21 “(D) a consideration of how such a system
22 will affect arrival and departure wait times that
23 takes into account prior reports on such mat-
24 ters issued by the Government Accountability
25 Office and the Department;

1 “(E) a consideration of audit capability for
2 systems procured in partnership with the pri-
3 vate sector to achieve biometric exit;

4 “(F) information received after consulta-
5 tion with the private sector, including the—

6 “(i) trucking industry;

7 “(ii) airport industry;

8 “(iii) airline industry;

9 “(iv) seaport industry;

10 “(v) travel industry; and

11 “(vi) biometric technology industry;

12 “(G) a consideration of how trusted trav-
13 eler programs in existence as of the date of the
14 enactment of this section may be impacted by,
15 or incorporated into, such a system;

16 “(H) defined metrics of success and mile-
17 stones;

18 “(I) identified risks and mitigation strate-
19 gies to address such risks;

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

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

24 “(L) a list of statutory, regulatory, or ad-
25 ministrative authorities, if any, needed to inte-

1 grate such a system into the operations of the
2 Transportation Security Administration; and

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

6 “(A) the 15 United States airports that
7 support the highest volume of international air
8 travel, as determined by available Federal flight
9 data;

10 “(B) the 10 United States seaports that
11 support the highest volume of international sea
12 travel, as determined by available Federal travel
13 data; and

14 “(C) the 15 United States land ports of
15 entry that support the highest volume of vehi-
16 cle, pedestrian, and cargo crossings, as deter-
17 mined by available Federal border crossing
18 data.

19 “(b) IMPLEMENTATION.—

20 “(1) PILOT PROGRAM AT LAND PORTS OF
21 ENTRY.—Not later than six months after the date of
22 the enactment of this section, the Secretary, in col-
23 laboration with industry stakeholders specified in
24 subsection (a)(1)(F), shall establish a six-month
25 pilot program to test the biometric exit data system

1 referred to in subsection (a)(1) on nonpedestrian
2 outbound traffic at not fewer than three land ports
3 of entry with significant cross-border traffic, includ-
4 ing at not fewer than two land ports of entry on the
5 southern land border and at least one land port of
6 entry on the northern land border. Such pilot pro-
7 gram may include a consideration of more than one
8 biometric mode, and shall be implemented to deter-
9 mine the following:

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

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

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

17 “(i) legitimate travel and trade;

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

20 “(iii) combating terrorism; and

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

23 “(2) AT LAND PORTS OF ENTRY.—

24 “(A) IN GENERAL.—Not later than five
25 years after the date of the enactment of this

1 section, the Secretary shall expand to all land
2 ports of entry the biometric exit data system es-
3 tablished pursuant to subsection (a)(2).

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

21 “(3) AT AIR AND SEA PORTS OF ENTRY.—Not
22 later than five years after the date of the enactment
23 of this section, the Secretary shall expand to all air
24 and sea ports of entry the biometric exit data system
25 referred to in subsection (a)(2).

1 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
2 TATION.—The Secretary, in consultation with appropriate
3 industry stakeholders, shall ensure that the collection of
4 biometric data under this section causes the least possible
5 disruption to the movement of people or cargo in air, sea,
6 or land transportation, while fulfilling the goals of improv-
7 ing counterterrorism efforts and identifying visa holders
8 who violate the terms of their visas.

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

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

19 “(1) match biometric information for an indi-
20 vidual, regardless of nationality, citizenship, or im-
21 migration status, who is departing the United States
22 against biometric data previously provided to the
23 United States Government by such individual for the
24 purposes of international travel;

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

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

9 “(A) store biometrics of known or sus-
10 pected terrorists; and

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

13 “(f) SCOPE.—

14 “(1) IN GENERAL.—The biometric exit data
15 system established under this section shall include a
16 requirement for the collection of biometric exit data
17 at the time of departure for all categories of individ-
18 uals who are required by the Secretary to provide bi-
19 ometric entry data.

20 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
21 UALS.—This section shall not apply in the case of an
22 individual who exits and then enters the United
23 States on a passenger vessel (as such term is defined
24 in section 2101 of title 46, United States Code) the

1 itinerary of which originates and terminates in the
2 United States.

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

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

12 “(h) MULTIMODAL COLLECTION.—In carrying out
13 subsections (a)(1) and (b), the Secretary shall make every
14 effort to collect biometric data using multiple modes of
15 biometrics.

16 “(i) FACILITIES.—

17 “(1) IN GENERAL.—All facilities at which the
18 biometric exit data system established under this
19 section is implemented shall provide and maintain
20 space for Federal use that is adequate to support bi-
21 ometric data collection and other inspection-related
22 activity.

23 “(2) NON-FEDERAL FACILITIES.—With respect
24 to each non-Federal facility at which the biometric
25 exit data system is implemented pursuant to para-

1 graph (1), the space required under such paragraph
2 shall be provided and maintained at no cost to the
3 Federal Government.

4 “(3) LAND PORTS OF ENTRY.—With respect to
5 each facility at a land port of entry at which the bio-
6 metric exit data system is implemented pursuant to
7 paragraph (1), the space required under such para-
8 graph shall be coordinated with the Administrator of
9 General Services.

10 “(j) NORTHERN LAND BORDER.—With respect to
11 the northern land border, the requirements under sub-
12 sections (a)(2)(C), (b)(2)(A), and (b)(3) may be achieved
13 through the sharing of biometric data provided to the De-
14 partment by the Canadian Border Services Agency pursu-
15 ant to the 2011 Beyond the Border agreement.

16 “(k) FULL AND OPEN COMPETITION.—The Sec-
17 retary shall procure goods and services to implement this
18 section through full and open competition in accordance
19 with the Federal Acquisition Regulation.

20 “(l) OTHER BIOMETRIC INITIATIVES.—Nothing in
21 this section may be construed as limiting the authority of
22 the Secretary to collect biometric information in cir-
23 cumstances other than as specified in this section.

24 “(m) CONGRESSIONAL REVIEW.—Not later than 90
25 days after the date of the enactment of this section, the

1 Secretary shall submit to the Committee on Homeland Se-
2 curity and the Committee on the Judiciary of the House
3 of Representatives and the Committee on Homeland Secu-
4 rity and Governmental Affairs and the Committee on the
5 Judiciary of the Senate reports and recommendations re-
6 garding the Directorate of Science and Technology's Air
7 Entry and Exit Re-Engineering Program and the U.S.
8 Customs and Border Protection entry and exit mobility
9 program demonstrations.

10 “(n) SAVINGS CLAUSE.—Nothing in this section may
11 prohibit the collection of user fees permitted by section
12 13031 of the Consolidated Omnibus Budget Reconciliation
13 Act of 1985 (19 U.S.C. 58c).”.

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

19 (3) CLERICAL AMENDMENT.—The table of con-
20 tents in section 1(b) of the Homeland Security Act
21 of 2002 is amended by inserting after the item relat-
22 ing to section 419 the following new item:

“Sec. 420. Biometric exit data system.”.

1 **SEC. 1126. NONINTRUSIVE INSPECTION OPERATIONS.**

2 The Secretary shall fully implement the requirements
3 of the Securing America's Ports Act (Public Law 116–
4 299; 6 U.S.C. 211 note).

5 **SEC. 1127. HOMELAND SECURITY INVESTIGATIONS INNOVA-**
6 **TION LAB.**

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

10 **“SEC. 463. INNOVATION LAB.**

11 **“(a) ESTABLISHMENT.—**

12 **“(1) IN GENERAL.—**There is established within
13 the Department a program to be known as the
14 ‘Homeland Security Investigations Innovation Lab’
15 (referred to in this section as the ‘Innovation Lab’).

16 **“(2) ASSISTANT DIRECTOR.—**The Innovation
17 Lab shall be headed by an Assistant Director, who
18 shall be appointed by the Executive Associate Direc-
19 tor of United States Immigration and Customs En-
20 forcement, Homeland Security Investigations.

21 **“(b) PURPOSE.—**The purpose of the Innovation Lab
22 shall be to improve investigative efficiency and mission-
23 critical outcomes by enhancing and streamlining data
24 processing, agility, assessment, visualization, and analysis
25 of homeland security data, using innovative and emerging
26 technologies and best practices for design principles. Inno-

1 vation Lab efforts shall be informed by designated field
2 agents and analysts with relevant experience.

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

6 “(1) the Department, where possible; or

7 “(2) Federal facilities, where appropriate.

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

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

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

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

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

21 “(e) PRIORITIZATION.—The Innovation Lab shall
22 prioritize new projects based on communicated investiga-
23 tive challenges experienced by each Homeland Security In-
24 vestigations field office. Such communication may be in-

1 incorporated in existing annual threat analyses conducted
2 by Homeland Security Investigations.

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

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

10 (b) CLERICAL AMENDMENT.—The table of contents
11 in section 1(b) of the Homeland Security Act of 2002 is
12 amended by inserting after the item relating to section
13 462 the following new item:

“Sec. 463. Innovation lab.”.

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

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of the enactment of this Act, the Secretary of Home-
20 land Security, in coordination with the Secretary of Com-
21 merce, shall submit to the Committee on Homeland Secu-
22 rity of the House of Representatives and the Committee
23 on Homeland Security and Governmental Affairs of the
24 Senate a report that contains an assessment of the stand-
25 ards and guidelines for managing ports of entry under the

1 control of the Department of Homeland Security. Such as-
2 sessment shall include information relating to the fol-
3 lowing:

4 (1) Staffing levels and need for additional staff-
5 ing.

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

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

10 (4) Assessment of existing efforts and tech-
11 nologies used for border security, and the effect of
12 the use of such efforts and technologies on facili-
13 tating trade at ports of entry and their impact on
14 civil rights, private property rights, privacy rights,
15 and civil liberties.

16 (5) Economic impact of the policies and prac-
17 tices of CBP Agricultural Specialists and Office of
18 Field Operations personnel.

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

21 (7) Data reflecting the specific needs of geo-
22 graphically separate ports of entry within the same
23 U.S. Border Patrol sector.

24 (b) REPORT ON PORT RUNNERS.—Not later than
25 180 days after the date of the enactment of this Act, the

1 Secretary of Homeland Security shall submit a report that
2 contains an assessment of instances of “Port Running”,
3 or departing the United States before officers can con-
4 clude traveler inspections, which shall include rec-
5 ommendations for new security enhancements, including
6 traffic barricades, to slow and deter individuals from leav-
7 ing the United States without authorization.

8 **Subtitle B—Personnel**

9 **SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 10 **TECTION PERSONNEL.**

11 (a) BORDER PATROL AGENTS.—Not later than Sep-
12 tember 30, 2025, the Commissioner shall hire, train, and
13 assign agents to maintain an active duty presence of—

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

16 (2) not fewer than 1,200 CBP processing coor-
17 dinators.

18 (b) CBP OFFICERS.—In addition to positions author-
19 ized before the date of the enactment of this section and
20 any existing officer vacancies within CBP as of such date,
21 the Commissioner shall, not later than September 30,
22 2025, hire, train, and assign to duty sufficient CBP offi-
23 cers to maintain an active duty presence of—

24 (1) not fewer than 27,725 full-time equivalent
25 officers; and

1 (2) the required associated full-time support
2 staff distributed among all United States ports of
3 entry.

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

9 (d) CBP K–9 UNITS AND HANDLERS.—

10 (1) K–9 UNITS.—Not later than September 30,
11 2025, the Commissioner shall deploy not fewer than
12 200 new K–9 units, with supporting officers of CBP
13 and other required staff, at land ports of entry and
14 checkpoints, along the northern and southern bor-
15 ders of the United States.

16 (2) USE OF CANINES.—The Commissioner shall
17 prioritize the use of K–9 units at the primary in-
18 spection lanes at land ports of entry and check-
19 points.

20 (e) CBP TUNNEL DETECTION AND REMEDIATION.—
21 Not later than September 30, 2025, the Commissioner
22 shall increase by not fewer than 50 the number of CBP
23 officers assisting task forces and activities related to—

24 (1) the deployment and operation of border tun-
25 nel detection technology;

1 (2) the apprehension of individuals using such
2 tunnels for—

3 (A) unlawfully entering the United States;

4 (B) drug trafficking; or

5 (C) human smuggling; and

6 (3) the remediation of such illicit tunnels.

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

13 (g) U.S. CUSTOMS AND BORDER PROTECTION OF-
14 FICE OF INTELLIGENCE.—Not later than September 30,
15 2025, the Commissioner shall hire, train, and assign suffi-
16 cient Office of Intelligence personnel to maintain not fewer
17 than 500 full-time equivalent employees.

18 (h) GAO REPORT.—If the staffing levels required
19 under this section are not achieved by September 30,
20 2025, the Comptroller General of the United States shall
21 conduct a review of the reasons why such levels were not
22 achieved.

1 **SEC. 1142. U.S. CUSTOMS AND BORDER PROTECTION RE-**
2 **TENTION INCENTIVES.**

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

6 **“§ 9702. U.S. Customs and Border Protection tem-**
7 **porary employment authorities**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘appropriate congressional com-
10 mittees’ means the Committee on Oversight and
11 Government Reform, the Committee on Homeland
12 Security, and the Committee on Ways and Means of
13 the House of Representatives and the Committee on
14 Homeland Security and Governmental Affairs and
15 the Committee on Finance of the Senate;

16 “(2) the term ‘CBP employee’ means an em-
17 ployee of U.S. Customs and Border Protection de-
18 scribed under any of subsections (a) through (h) of
19 section 1134 of the Border Security for America
20 Act;

21 “(3) the term ‘Commissioner’ means the Com-
22 missioner of U.S. Customs and Border Protection;

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

25 “(5) the term ‘Secretary’ means the Secretary
26 of Homeland Security.

1 “(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND
2 RELOCATION BONUSES; RETENTION BONUSES.—

3 “(1) STATEMENT OF PURPOSE AND LIMITA-
4 TION.—The purpose of this subsection is to allow
5 U.S. Customs and Border Protection to expedi-
6 tiously meet the hiring goals and staffing levels re-
7 quired by the Border Security for America Act. The
8 Secretary shall not use this authority beyond meet-
9 ing the requirements of such section.

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

15 “(3) RECRUITMENT AND RELOCATION BO-
16 NUSES.—The Secretary may pay a recruitment or
17 relocation bonus of up to 50 percent of the annual
18 rate of basic pay to an individual CBP employee at
19 the beginning of the service period multiplied by the
20 number of years (including a fractional part of a
21 year) in the required service period to an individual
22 (other than an individual described in subsection
23 (a)(2) of section 5753) if—

24 “(A) the Secretary determines that condi-
25 tions consistent with the conditions described in

1 paragraphs (1) and (2) of subsection (b) of
2 such section 5753 are satisfied with respect to
3 the individual (without regard to the regula-
4 tions referenced in subsection (b)(2)(B)(ii)(I) of
5 such section or to any other provision of that
6 section); and

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

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

13 “(ii) that includes—

14 “(I) the commencement and ter-
15 mination dates of the required service
16 period (or provisions for the deter-
17 mination thereof);

18 “(II) the amount of the bonus;
19 and

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

24 “(aa) the conditions under
25 which the agreement may be ter-

1 minated before the agreed-upon
2 service period has been com-
3 pleted; and

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

6 “(4) RETENTION BONUSES.—The Secretary
7 may pay a retention bonus of up to 50 percent of
8 basic pay to an individual CBP employee (other than
9 an individual described in subsection (a)(2) of sec-
10 tion 5754) if—

11 “(A) the Secretary determines that—

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

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

20 “(I) the Federal service; or

21 “(II) for a different position in
22 the Federal service, including a posi-
23 tion in another agency or component
24 of the Department of Homeland Secu-
25 rity; and

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

3 “(i) under which the individual is re-
4 quired to complete a period of employment
5 as a CBP employee of not less than 2
6 years; and

7 “(ii) that includes—

8 “(I) the commencement and ter-
9 mination dates of the required service
10 period (or provisions for the deter-
11 mination thereof);

12 “(II) the amount of the bonus;
13 and

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

18 “(aa) the conditions under
19 which the agreement may be ter-
20 minated before the agreed-upon
21 service period has been com-
22 pleted; and

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

25 “(5) RULES FOR BONUSES.—

1 “(A) MAXIMUM BONUS.—A bonus paid to
2 an employee under—

3 “(i) paragraph (3) may not exceed
4 100 percent of the annual rate of basic pay
5 of the employee as of the commencement
6 date of the applicable service period; and

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

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

18 “(C) PERIOD OF SERVICE FOR RECRUIT-
19 MENT, RELOCATION, AND RETENTION BO-
20 NUSES.—

21 “(i) A bonus paid to an employee
22 under paragraph (4) may not be based on
23 any period of such service which is the
24 basis for a recruitment or relocation bonus
25 under paragraph (3).

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

7 “(c) SPECIAL RATES OF PAY.—In addition to the cir-
8 cumstances described in subsection (b) of section 5305,
9 the Director may establish special rates of pay in accord-
10 ance with that section to assist the Secretary in meeting
11 the requirements of the Border Security for America Act.
12 The Director shall prioritize the consideration of requests
13 from the Secretary for such special rates of pay and issue
14 a decision as soon as practicable. The Secretary shall pro-
15 vide such information to the Director as the Director
16 deems necessary to evaluate special rates of pay under this
17 subsection.

18 “(d) OPM OVERSIGHT.—

19 “(1) Not later than September 30 of each year,
20 the Secretary shall provide a report to the Director
21 on U.S. Custom and Border Protection’s use of au-
22 thorities provided under subsections (b) and (c). In
23 each report, the Secretary shall provide such infor-
24 mation as the Director determines is appropriate to
25 ensure appropriate use of authorities under such

1 subsections. Each report shall also include an assess-
2 ment of—

3 “(A) the impact of the use of authorities
4 under subsections (b) and (c) on implementa-
5 tion of section 1134 of the Border Security for
6 America Act;

7 “(B) solving hiring and retention chal-
8 lenges at the agency, including at specific loca-
9 tions;

10 “(C) whether hiring and retention chal-
11 lenges still exist at the agency or specific loca-
12 tions; and

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

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

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

23 “(B) the length of time that each employee
24 identified under subparagraph (A) stayed at the
25 original location before transferring to a new lo-

1 cation or leaving U.S. Customs and Border
2 Protection.

3 “(3) DISTRIBUTION.—In addition to the Direc-
4 tor, the Secretary shall submit each report required
5 under this subsection to the appropriate congres-
6 sional committees.

7 “(e) OPM ACTION.—If the Director determines the
8 Secretary has inappropriately used authorities under sub-
9 section (b) or a special rate of pay provided under sub-
10 section (c), the Director shall notify the Secretary and the
11 appropriate congressional committees in writing. Upon re-
12 ceipt of the notification, the Secretary may not make any
13 new appointments or issue any new bonuses under sub-
14 section (b), nor provide CBP employees with further spe-
15 cial rates of pay, until the Director has provided the Sec-
16 retary and the appropriate congressional committees a
17 written notice stating the Director is satisfied safeguards
18 are in place to prevent further inappropriate use.

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

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

21 Not later than 180 days after the date of the enact-
22 ment of this section, and in conjunction with the
23 Chief Human Capital Officer of the Department of
24 Homeland Security, the Secretary shall develop and
25 implement a strategy to improve the education re-

1 garding hiring and human resources flexibilities (in-
2 cluding hiring and human resources flexibilities for
3 locations in rural or remote areas) for all employees,
4 serving in agency headquarters or field offices, who
5 are involved in the recruitment, hiring, assessment,
6 or selection of candidates for locations in a rural or
7 remote area, as well as the retention of current em-
8 ployees.

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

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

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

20 “(C) The development of pilot programs or
21 other programs, as appropriate, consistent with
22 authorities provided to the Secretary to address
23 identified hiring challenges, including in rural
24 or remote areas.

1 “(D) Developing and enhancing strategic
2 recruiting efforts through the relationships with
3 institutions of higher education, as defined in
4 section 102 of the Higher Education Act of
5 1965 (20 U.S.C. 1002), veterans transition and
6 employment centers, and job placement pro-
7 gram in regions that could assist in filling posi-
8 tions in rural or remote areas.

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

13 “(F) Feedback from individuals who are
14 candidates or new hires at locations in a rural
15 or remote area, including feedback on the qual-
16 ity of life in rural or remote areas for new hires
17 and their families.

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

23 “(H) Evaluation of Department of Home-
24 land Security internship programs and the use-

1 fulness of those programs in improving hiring
2 by the Secretary in rural or remote areas.

3 “(3) EVALUATION.—

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

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

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

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

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

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

21 “(iii) other information the Secretary
22 determines relevant.

23 “(g) INSPECTOR GENERAL REVIEW.—Not later than
24 two years after the date of the enactment of this section,
25 the Inspector General of the Department of Homeland Se-

1 curity shall review the use of hiring and pay flexibilities
2 under subsections (b) and (c) to determine whether the
3 use of such flexibilities is helping the Secretary meet hir-
4 ing and retention needs, including in rural and remote
5 areas.

6 “(h) EXERCISE OF AUTHORITY.—

7 “(1) SOLE DISCRETION.—The exercise of au-
8 thority under subsection (b) shall be subject to the
9 sole and exclusive discretion of the Secretary (or the
10 Commissioner, as applicable under paragraph (2) of
11 this subsection), notwithstanding chapter 71 and
12 any collective bargaining agreement.

13 “(2) DELEGATION.—The Secretary may dele-
14 gate any authority under this section to the Com-
15 missioner.

16 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion shall be construed to exempt the Secretary or the Di-
18 rector from applicability of the merit system principles
19 under section 2301.

20 “(j) SUNSET.—The authorities under subsections (b)
21 and (c) shall terminate on September 30, 2028. Any bonus
22 to be paid pursuant to subsection (b) that is approved be-
23 fore such date may continue until such bonus has been
24 paid, subject to the conditions specified in this section.”.

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

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

5 **SEC. 1143. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-**
6 **TION.**

7 (a) HIRING FLEXIBILITY.—Section 3 of the Anti-
8 Border Corruption Act of 2010 (6 U.S.C. 221; Public Law
9 111–376) is amended by striking subsection (b) and in-
10 serting the following new subsections:

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

14 “(1) to a current, full-time law enforcement of-
15 ficer employed by a State or local law enforcement
16 agency who—

17 “(A) has continuously served as a law en-
18 forcement officer for not fewer than three
19 years;

20 “(B) is authorized by law to engage in or
21 supervise the prevention, detection, investiga-
22 tion, or prosecution of, or the incarceration of
23 any person for, any violation of law, and has
24 statutory powers for arrest or apprehension;

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

8 “(D) has, within the past ten years, suc-
9 cessfully completed a polygraph examination as
10 a condition of employment with such officer’s
11 current law enforcement agency;

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

14 “(A) has continuously served as a law en-
15 forcement officer for not fewer than three
16 years;

17 “(B) is authorized to make arrests, con-
18 duct investigations, conduct searches, make sei-
19 zures, carry firearms, and serve orders, war-
20 rants, and other processes;

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

1 not been dismissed from a law enforcement offi-
2 cer position; and

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

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

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

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

14 “(C) holds, or has undergone within the
15 past five years, a current Tier 4 background in-
16 vestigation or current Tier 5 background inves-
17 tigation;

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

1 “(E) was not granted any waivers to ob-
2 tain the clearance referred to in subparagraph
3 (B).

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

8 (b) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
9 DEFINITIONS.—

10 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
11 ITY.—The Anti-Border Corruption Act of 2010 is
12 amended by adding at the end the following new sec-
13 tion:

14 **“SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

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

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

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

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

15 **“SEC. 6. REPORTING.**

16 “(a) ANNUAL REPORT.—Not later than one year
17 after the date of the enactment of this section and annu-
18 ally thereafter while the waiver authority under section
19 3(b) is in effect, the Commissioner of U.S. Customs and
20 Border Protection shall submit to Congress a report that
21 includes, with respect to each such reporting period—

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

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

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

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

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

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

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

15 “(1) an analysis of other methods of employ-
16 ment suitability tests that detect deception and could
17 be used in conjunction with traditional background
18 investigations to evaluate potential employees for
19 suitability; and

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

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

5 **“SEC. 7. DEFINITIONS.**

6 “In this Act:

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

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

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

18 “(B) a punitive discharge is, or would be,
19 authorized for the same or a closely related of-
20 fense under the Manual for Court-Martial, as
21 pursuant to Army Regulation 635–200, chapter
22 14–12.

23 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
24 ‘Tier 5’ with respect to background investigations

1 have the meaning given such terms under the 2012
2 Federal Investigative Standards.

3 “(4) VETERAN.—The term ‘veteran’ has the
4 meaning given such term in section 101(2) of title
5 38, United States Code.”.

6 (c) POLYGRAPH EXAMINERS.—Not later than Sep-
7 tember 30, 2025, the Secretary shall increase to not fewer
8 than 150 the number of trained full-time equivalent poly-
9 graph examiners for administering polygraphs under the
10 Anti-Border Corruption Act of 2010, as amended by this
11 section.

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

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

17 “(l) TRAINING AND CONTINUING EDUCATION.—

18 “(1) MANDATORY TRAINING.—The Commis-
19 sioner shall ensure that every agent and officer of
20 U.S. Customs and Border Protection receives a min-
21 imum of 21 weeks of training that are directly re-
22 lated to the mission of the U.S. Border Patrol, Air
23 and Marine, and the Office of Field Operations be-
24 fore the initial assignment of such agents and offi-
25 cers.

1 “(2) FLETC.—The Commissioner shall work
2 in consultation with the Director of the Federal Law
3 Enforcement Training Centers to establish guide-
4 lines and curriculum for the training of agents and
5 officers of U.S. Customs and Border Protection
6 under subsection (a).

7 “(3) CONTINUING EDUCATION.—The Commis-
8 sioner shall annually require all agents and officers
9 of U.S. Customs and Border Protection who are re-
10 quired to undergo training under subsection (a) to
11 participate in not fewer than eight hours of con-
12 tinuing education annually to maintain and update
13 understanding of Federal legal rulings, court deci-
14 sions, and Department policies, procedures, and
15 guidelines related to relevant subject matters.

16 “(4) LEADERSHIP TRAINING.—Not later than
17 one year after the date of the enactment of this sub-
18 section, the Commissioner shall develop and require
19 training courses geared towards the development of
20 leadership skills for mid- and senior-level career em-
21 ployees not later than one year after such employees
22 assume duties in supervisory roles.”.

23 (b) REPORT.—Not later than 180 days after the date
24 of the enactment of this Act, the Commissioner shall sub-
25 mit to the Committee on Homeland Security and the Com-

1 mittee on Ways and Means of the House of Representa-
2 tives and the Committee on Homeland Security and Gov-
3 ernmental Affairs and the Committee on Finance of the
4 Senate a report identifying the guidelines and curriculum
5 established to carry out subsection (l) of section 411 of
6 the Homeland Security Act of 2002, as amended by sub-
7 section (a) of this section.

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

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

22 (a) IN GENERAL.—Not later than one year after the
23 date of the enactment of this Act, the Commissioner, in
24 coordination with the Under Secretary for Management,
25 the Chief Human Capital Officer, and the Chief Financial

1 Officer of the Department, shall implement a workload
2 staffing model for each of the following:

3 (1) The U.S. Border Patrol.

4 (2) Air and Marine Operations of CBP.

5 (b) RESPONSIBILITIES OF THE COMMISSIONER OF
6 CBP.—Subsection (c) of section 411 of the Homeland Se-
7 curity Act of 2002 (6 U.S.C. 211), is amended—

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

10 (2) by inserting after paragraph (17) the fol-
11 lowing new paragraphs:

12 “(18) implement a staffing model that includes
13 consideration for essential frontline operator activi-
14 ties and functions, variations in operating environ-
15 ments, present and planned infrastructure, present
16 and planned technology, and required operations
17 support levels for the U.S. Border Patrol, Air and
18 Marine Operations, and the Office of Field Oper-
19 ations, to manage and assign personnel of such enti-
20 ties to ensure field and support posts possess ade-
21 quate resources to carry out duties specified in this
22 section;

23 “(19) develop standard operating procedures
24 for a workforce tracking system within the U.S.
25 Border Patrol, Air and Marine Operations, and the

1 Office of Field Operations, train the workforce of
2 each of such entities on the use, capabilities, and
3 purpose of such system, and implement internal con-
4 trols to ensure timely and accurate scheduling and
5 reporting of actual completed work hours and activi-
6 ties;”.

7 (c) REPORT.—

8 (1) IN GENERAL.—Not later than one year
9 after the date of the enactment of this section with
10 respect to subsection (a) and paragraphs (18) and
11 (19) of section 411(c) of the Homeland Security Act
12 of 2002 (as amended by subsection (b)), and annu-
13 ally thereafter with respect to such paragraphs (18)
14 and (19), the Secretary shall submit to the appro-
15 priate congressional committees a report that in-
16 cludes a status update on—

17 (A) the implementation of such subsection

18 (a) and such paragraphs (18) and (19); and

19 (B) each relevant workload staffing model.

20 (2) DATA SOURCES AND METHODOLOGY RE-
21 QUIRED.—Each report required under paragraph (1)
22 shall include information relating to the data sources
23 and methodology used to generate such staffing
24 models.

1 (d) INSPECTOR GENERAL REVIEW.—Not later than
2 120 days after the Commissioner develops the workload
3 staffing models pursuant to subsection (a), the Inspector
4 General of the Department shall review such model and
5 provide feedback to the Secretary and the appropriate con-
6 gressional committees with respect to the degree to which
7 such model is responsive to the recommendations of the
8 Inspector General, including—

9 (1) recommendations from the Inspector Gen-
10 eral’s February 2019 audit; and

11 (2) any further recommendations to improve
12 such model.

13 (e) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
14 FINED.—In this section, the term “appropriate congres-
15 sional committees” means—

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

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

20 **SEC. 1146. U.S. BORDER PATROL PROCESSING COORDI-**
21 **NATOR POSITIONS.**

22 (a) PROCESSING COORDINATORS.—The Commis-
23 sioner of U.S. Customs and Border Protection is author-
24 ized to hire and train U.S. Border Patrol Processing Coor-
25 dinators to operate within the U.S. Border Patrol to—

1 (1) perform administrative tasks related to the
2 intake and processing of individuals apprehended by
3 U.S. Border Patrol agents, where necessary;

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

6 (3) perform custodial watch duties of individ-
7 uals in such custody, including individuals who have
8 been admitted to a hospital.

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

17 (c) TRAINING.—The Commissioner of U.S. Customs
18 and Border Protection, in coordination with the Chief of
19 the U.S. Border Patrol and in consultation with the Direc-
20 tor of the Federal Law Enforcement Training Centers,
21 shall develop tailored training for U.S. Border Patrol
22 Processing Coordinators.

23 (d) ASSOCIATED SUPPORT STAFF.—The Commis-
24 sioner of U.S. Customs and Border Protection is author-
25 ized to hire appropriate professional support staff to facili-

1 tate the hiring, training, and other support functions re-
2 quired by U.S. Border Patrol Processing Coordinators.

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

12 (1) The number of U.S. Border Patrol Proc-
13 essing Coordinators assigned to each such sector.

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

18 (3) The percentage of U.S. Border Patrol
19 agents who returned to field operations as a result
20 of U.S. Border Patrol Processing Coordinators un-
21 dertaking the responsibilities described in subsection
22 (a).

1 **SEC. 1147. ESTABLISHMENT OF HIGHER MINIMUM RATES**
2 **OF PAY FOR UNITED STATES BORDER PA-**
3 **TROL AGENTS.**

4 (a) HIGHER MINIMUM RATE OF PAY.—Not later
5 than 180 days after the enactment of this Act, the Direc-
6 tor of the Office of Personnel Management—

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

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

13 (B) increase other grades or levels, occupa-
14 tional groups, series, classes, or subdivisions
15 thereof, as determined by the Secretary of
16 Homeland Security;

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

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

23 (B) such other pay incentives and overtime
24 scales; and

1 (3) may make increases in all rates in the pay
2 range for each such grade or level, in accordance
3 with such section 5305.

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

8 **SEC. 1148. BODY WORN CAMERA PILOT PROGRAM AUTHOR-**
9 **IZATION.**

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

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

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

17 (b) POWERS OF IMMIGRATION OFFICERS AND EM-
18 PLOYEES AT PROTECTED AREAS.—

19 (1) IN GENERAL.—Section 287 of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1357) is amend-
21 ed by adding at the end the following:

22 “(i)(1) Except as otherwise provided, an officer
23 or an agent of the U.S. Immigration and Customs
24 Enforcement or the U.S. Customs and Border Pro-

1 tection may not take an immigration enforcement
2 action in or near a protected area.

3 “(2) Paragraph (1) does not apply—

4 “(A) whenever prior approval has been ob-
5 tained; or

6 “(B) under exigent circumstances (includ-
7 ing, but not limited to, an immigration enforce-
8 ment action that involves a national security
9 threat, the hot pursuit of an individual who
10 poses a public safety threat, or the hot pursuit
11 of an individual who was observed crossing the
12 border; that involves the imminent risk of
13 death, violence, or physical harm to a person or
14 the imminent risk that evidence material to a
15 criminal case will be destroyed; or where a safe
16 alternative location does not exist).

17 “(3) When taking an immigration enforcement
18 action in or near a protected area, an officer or an
19 agent of U.S. Immigration and Customs Enforce-
20 ment or U.S. Customs and Border Protection shall,
21 to the fullest extent possible—

22 “(A) take the immigration enforcement ac-
23 tion in a non-public area or in a manner that
24 minimizes the effect on another person who is
25 accessing the protected area;

1 “(B) limit the time spent in or near the
2 protected area; and

3 “(C) limit the immigration enforcement ac-
4 tion to the person who is the subject of such en-
5 forcement action.

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

13 “(5)(A) At the time the budget of the President
14 is submitted to Congress for a fiscal year under sec-
15 tion 1105(a) of title 31, United States Code, the
16 Secretary of Homeland Security shall submit to the
17 appropriate committees of Congress a report on the
18 immigration enforcement actions in or near a pro-
19 tected area that U.S. Immigration and Customs En-
20 forcement and U.S. Customs and Border Protection
21 undertook during the preceding fiscal year.

22 “(B) Each report submitted pursuant to
23 subparagraph (A) shall set forth the following:

1 “(i) The number of immigration en-
2 forcement actions that occurred in or near
3 a protected area.

4 “(ii) The number of immigration en-
5 forcement actions where officers or agents
6 were subsequently led into or near a pro-
7 tected area.

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

11 “(v) A summary of each immigration
12 enforcement action that occurred in or
13 near a protected area, excluding any per-
14 sonally identifiable information linked to
15 an individual.

16 “(vi) The number of individuals, if
17 any, whom U.S. Immigration and Customs
18 Enforcement and U.S. Customs and Bor-
19 der Protection arrested or took into cus-
20 tody through each immigration enforce-
21 ment action that occurred in or near a pro-
22 tected area.

23 “(vii) The number of instances during
24 an immigration enforcement action in or

1 near a protected area for which prior ap-
2 proval was obtained.

3 “(6) In this subsection:

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

6 “(i) the Committee on Homeland Se-
7 curity and Governmental Affairs of the
8 Senate;

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

11 “(iii) the Committee on Homeland Se-
12 curity of the House of Representatives;

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

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

17 “(vi) the Committee on Appropria-
18 tions of the Senate.

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

23 “(C) The term ‘prior approval’ means—

24 “(i) in the case of an immigration en-
25 forcement action that an officer or an

1 agent of U.S. Immigration and Customs
2 Enforcement will take, prior written ap-
3 proval from the Director (or the Director's
4 designee); and

5 “(ii) in the case of an immigration en-
6 forcement action that an officer or an
7 agent of U.S. Customs and Border Protec-
8 tion will take, prior written approval from
9 the Commissioner (or the Commissioner's
10 designee).

11 “(D) The term ‘protected area’ includes a
12 structure or a place that provides essential serv-
13 ices or at which a person would engage in an
14 essential activity, including—

15 “(i) any school;

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

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

23 “(iv) any structure or place, the pur-
24 pose of which is for children to gather;

1 “(v) any structure or place, the pur-
2 pose of which is to provide social services;

3 “(vi) any structure or place, the pur-
4 pose of which is to provide disaster or
5 emergency assistance or emergency relief;

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

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

12 “(7) For the purposes of this subsection, the
13 Secretary of Homeland Security shall promulgate
14 guidance, in the exercise of his discretion, on the
15 physical distance that constitutes “in or near a pro-
16 tected area.”.

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

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

23 (B) supersede or rescind any Department
24 of Homeland Security guidance that was in ef-
25 fect on the date of enactment of this Act; or

1 (C) compel the Secretary of Homeland Se-
2 curity to amend or issue guidance, except that
3 the Secretary may amend guidance to comport
4 with this section.

5 **Subtitle C—Grants**

6 **SEC. 1161. OPERATION STONEGARDEN.**

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

10 **“SEC. 2009A. OPERATION STONEGARDEN.**

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

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

21 “(1) shall be located in—

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

23 or

24 “(B) a State or territory with a maritime

25 border; and

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

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

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

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

12 “(3) any activity permitted for Operation
13 Stonegarden under the most recent fiscal year De-
14 partment of Homeland Security’s Homeland Secu-
15 rity Grant Program Notice of Funding Opportunity;
16 and

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

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

24 “(e) REPORT.—For each of fiscal years 2024 through
25 2028, the Administrator shall submit to the Committee

1 on Homeland Security of the House of Representatives
2 and the Committee on Homeland Security and Govern-
3 mental Affairs of the Senate a report that contains infor-
4 mation on the expenditure of grants made under this sec-
5 tion by each grant recipient.

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

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

13 “(a) GRANTS AUTHORIZED.—The Secretary, through
14 the Administrator, may award grants under sections 2003,
15 2004, 2009, and 2009A to State, local, and Tribal govern-
16 ments, as appropriate.”.

17 (c) CLERICAL AMENDMENT.—The table of contents
18 in section 1(b) of the Homeland Security Act of 2002 is
19 amended by inserting after the item relating to section
20 2009 the following new item:

“Sec. 2009A. Operation Stonegarden.”.

21 **SEC. 1162. PROGRAM FOR SHELTER AND SERVICES.**

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

1 **“SEC. 2010. SHELTER AND SERVICES PROGRAM.**

2 “(a) **ESTABLISHMENT.**—There is established in the
3 Department a program to be known as the ‘Shelter and
4 Services Program’, under which the Secretary, acting
5 through the Administrator of General Services, shall make
6 grants available to non-Federal entities to support shel-
7 tering and relieving overcrowding in short-term holding fa-
8 cilities of U.S. Customs and Border Protection.

9 “(b) **ELIGIBLE RECIPIENTS.**—To be eligible to re-
10 ceive a grant under this section, a non-Federal entity or
11 local municipality shall—

12 “(1) be located in—

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

14 or

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

17 “(2) be involved in assisting individuals and
18 families, and providing services to individuals appre-
19 hended by the Department of Homeland Security.

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

22 “(1) supporting U.S. Customs and Border Pro-
23 tection in effectively managing migrant processing
24 and preventing the overcrowding of short-term hold-
25 ing facilities of the agency;

1 “(2) sheltering individuals and families, and
2 other related services;

3 “(3) facility improvements and construction; or

4 “(4) any other appropriate activity, as deter-
5 mined by the Administrator of General Services, in
6 consultation with the Commissioner of U.S. Customs
7 and Border Protection or the Administrator of the
8 Federal Emergency Management Agency.

9 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as may be
11 necessary for each of the fiscal years 2024 through 2028
12 for grants under this section.”.

13 **Subtitle D—Border Security** 14 **Certification**

15 **SEC. 1181. BORDER SECURITY CERTIFICATION.**

16 (a) GAO REPORT.—Not later than 2 years after the
17 date of enactment of this Act, and annually thereafter
18 until such time as the Comptroller General of the United
19 States makes the certification described in subsection (b),
20 the Comptroller General shall submit to the Committee
21 on Homeland Security of the House of Representatives
22 and the Committee on Homeland Security and Govern-
23 ment Affairs of the Senate a report detailing the progress
24 in implementing this title and title II containing—

1 (1) recommendations on how best to continue
2 implementing this title and title II; and

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

6 (b) GAO CERTIFICATION OF BORDER SECURITY.—
7 The Secretary of Homeland Security may not adjust the
8 status of an individual under section 24103 until the date
9 that the Comptroller General of the United States certifies
10 that the Border Patrol has achieved a 90 percent or higher
11 detection and apprehension rate of individuals attempting
12 to cross the southern border of the United States unlaw-
13 fully during the previous 12-month period.

14 **TITLE II—BORDER SECURITY**
15 **AND PORTS OF ENTRY INFRA-**
16 **STRUCTURE FUNDING**

17 **Subtitle A—Emergency Port of**
18 **Entry Personnel and Infrastruc-**
19 **ture Funding**

20 **SEC. 1201. PORTS OF ENTRY INFRASTRUCTURE.**

21 (a) ADDITIONAL PORTS OF ENTRY.—

22 (1) AUTHORITY.—The Administrator of Gen-
23 eral Services may, subject to section 3307 of title
24 40, United States Code, construct new ports of entry

1 along the northern border and southern border at lo-
2 cations determined by the Secretary.

3 (2) CONSULTATION.—

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

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

21 (b) EXPANSION AND MODERNIZATION OF HIGH-PRI-
22 ORITY SOUTHERN BORDER PORTS OF ENTRY.—Not later
23 than 5 years after the date of enactment of this Act, the
24 Administrator of General Services, subject to section 3307
25 of title 40, United States Code, and in coordination with

1 the Secretary, shall expand or modernize high-priority
2 ports of entry on the southern border, as determined by
3 the Secretary, for the purposes of reducing wait times and
4 enhancing security.

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

10 (d) NOTIFICATIONS.—

11 (1) RELATING TO NEW PORTS OF ENTRY.—Not
12 later than 15 days after determining the location of
13 any new port of entry for construction pursuant to
14 subsection (a), the Secretary and the Administrator
15 of General Services shall jointly notify the Members
16 of Congress who represent the State or congressional
17 district in which such new port of entry will be lo-
18 cated, as well as the Committee on Homeland Secu-
19 rity and Governmental Affairs, the Committee on
20 Finance, the Committee on Commerce, Science, and
21 Transportation, and the Committee on the Judiciary
22 of the Senate, and the Committee on Homeland Se-
23 curity, the Committee on Ways and Means, the
24 Committee on Transportation and Infrastructure,
25 and the Committee on the Judiciary of the House of

1 Representatives. Such notification shall include in-
2 formation relating to the location of such new port
3 of entry, a description of the need for such new port
4 of entry and associated anticipated benefits, a de-
5 scription of the consultations undertaken by the Sec-
6 retary and the Administrator pursuant to paragraph
7 (2) of such subsection, any actions that will be taken
8 to minimize negative impacts of such new port of
9 entry, and the anticipated timeline for construction
10 and completion of such new port of entry.

11 (2) RELATING TO EXPANSION AND MODERNIZA-
12 TION OF PORTS OF ENTRY.—Not later than 180
13 days after enactment of this Act, the Secretary and
14 the Administrator of General Services shall jointly
15 notify the Committee on Homeland Security and
16 Governmental Affairs, the Committee on Finance,
17 the Committee on Commerce, Science, and Trans-
18 portation, and the Committee on the Judiciary of
19 the Senate, and the Committee on Homeland Secu-
20 rity, the Committee on Ways and Means, the Com-
21 mittee on Transportation and Infrastructure, and
22 the Committee on the Judiciary of the House of
23 Representatives of the ports of entry on the south-
24 ern border that are the subject of expansion or mod-
25 ernization pursuant to subsection (b) and the Sec-

1 retary's and Administrator's plan for expanding or
2 modernizing each such port of entry.

3 (e) SAVINGS PROVISION.—Nothing in this section
4 may be construed to—

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

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

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

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

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

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

23 (b) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that, in the best interest of cross-border trade and
25 the agricultural community—

1 (1) any lack of certified personnel for inspection
2 purposes at ports of entry should be addressed by
3 seeking cooperation between agencies and depart-
4 ments of the United States, whether in the form of
5 a memorandum of understanding or through a cer-
6 tification process, whereby additional existing agents
7 are authorized for additional hours to facilitate and
8 expedite the flow of legitimate trade and commerce
9 of perishable goods in a manner consistent with
10 rules of the Department of Agriculture; and

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

16 **SEC. 1203. AUTHORIZATION OF APPROPRIATIONS.**

17 In addition to any amounts otherwise authorized to
18 be appropriated for such purpose, there is appropriated
19 \$2,000,000,000 for each of fiscal years 2024 through
20 2028 to carry out this subtitle.

21 **Subtitle B—Border Security**
22 **Funding**

23 **SEC. 1211. BORDER SECURITY FUNDING.**

24 (a) **FUNDING.**—In addition to amounts otherwise
25 made available by this Act or any other provision of law,

1 there is hereby appropriated to the “U.S. Customs and
2 Border Protection—Procurement, Construction, and Im-
3 provements” account, out of any amounts in the Treasury
4 not otherwise appropriated, \$25,000,000,000, to be avail-
5 able for—

6 (1) a full border infrastructure system, includ-
7 ing enhanced physical barriers and associated detec-
8 tion technology, roads, and lighting; and

9 (2) infrastructure, assets, operations, and the
10 most up-to-date technology to enhance border secu-
11 rity along the United States, including—

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

15 (B) new roads and improvements to exist-
16 ing roads;

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

19 (D) aircraft, aircraft-based sensors and as-
20 sociated technology, vessels, spare parts, and
21 equipment to maintain such assets; and

22 (E) a biometric entry and exit system.

23 (b) AVAILABILITY OF BORDER BARRIER SYSTEM
24 FUNDS.—

1 (1) IN GENERAL.—Of the amount appropriated
2 in subsection (a)(1)—

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

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

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

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

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

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

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

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

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

21 (c) AVAILABILITY OF BORDER SECURITY INVEST-
22 MENT FUNDS.—

23 (1) IN GENERAL.—Of the amount appropriated
24 in subsection (a)(2)—

1 (A) \$500,000,000 shall become available
2 October 1, 2023;

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

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

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

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

11 (d) MULTI-YEAR SPENDING PLAN.—The Secretary
12 of Homeland Security shall include in the budget justifica-
13 tion materials submitted in support of the President’s an-
14 nual budget request for fiscal year 2025 (as submitted
15 under section 1105(a) of title 31, United States Code) a
16 multi-year spending plan for the amounts made available
17 under subsection (a).

18 (e) QUARTERLY BRIEFING REQUIREMENT.—Begin-
19 ning not later than 180 days after the date of the enact-
20 ment of this Act, and quarterly thereafter, the Commis-
21 sioner of U.S. Customs and Border Protection shall brief
22 the Committees on Appropriations of the Senate and the
23 House of Representatives regarding activities under and
24 progress made in carrying out this section.

1 **SEC. 1212. EXCLUSION FROM PAYGO SCORECARDS.**

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

5 **SEC. 1213. FUNDING MATTERS.**

6 (a) IMMIGRATION INFRASTRUCTURE FUND.—

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

10 **“SEC. 9512. IMMIGRATION INFRASTRUCTURE FUND.**

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

17 “(b) TRANSFER TO TRUST FUND OF AMOUNTS
18 EQUIVALENT TO CERTAIN TAXES.—There are hereby ap-
19 propriated to the Immigration Infrastructure Fund
20 amounts equivalent to the taxes received in the Treasury
21 under section 24004 of division B of the Dignity for Immi-
22 grants while Guarding our Nation to Ignite and Deliver
23 the American Dream Act paid or incurred by taxpayers
24 who are aliens and participants in the Dignity Program
25 under title IV of division B of the Dignity for Immigrants

1 while Guarding our Nation to Ignite and Deliver the
2 American Dream Act.

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

8 (2) CLERICAL AMENDMENT.—The table of sec-
9 tions for subchapter A of chapter 98 of such Code
10 is amended by adding at the end the following new
11 item:

“Sec. 9512. Immigration Infrastructure Fund.”.

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

15 **TITLE III—VISA SECURITY AND** 16 **INTEGRITY**

17 **SEC. 1301. VISA SECURITY.**

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

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

23 “(A) AUTHORIZATION.—Subject to the
24 minimum number specified in subparagraph
25 (B), the Secretary”; and

1 (2) by adding at the end the following new sub-
2 paragraph:

3 “(B) RISK-BASED ASSIGNMENTS.—

4 “(i) IN GENERAL.—In carrying out
5 subparagraph (A), the Secretary shall as-
6 sign employees of the Department to not
7 fewer than 75 diplomatic and consular
8 posts at which visas are issued. Such as-
9 signments shall be made—

10 “(I) in a risk-based manner;

11 “(II) considering the criteria de-
12 scribed in clause (iii); and

13 “(III) in accordance with Na-
14 tional Security Decision Directive 38
15 of June 2, 1982, or any superseding
16 presidential directive concerning staff-
17 ing at diplomatic and consular posts.

18 “(ii) PRIORITY CONSIDERATION.—In
19 carrying out National Security Decision
20 Directive 38 of June 2, 1982, the Sec-
21 retary of State shall ensure priority consid-
22 eration of any staffing assignment pursu-
23 ant to this subparagraph.

1 “(iii) CRITERIA DESCRIBED.—The cri-
2 teria referred to in clause (i) are the fol-
3 lowing:

4 “(I) The number of nationals of
5 a country in which any of the diplo-
6 matic and consular posts referred to
7 in clause (i) are located who were
8 identified in United States Govern-
9 ment databases related to the identi-
10 ties of known or suspected terrorists
11 during the previous year.

12 “(II) Information on the coopera-
13 tion of such country with the counter-
14 terrorism efforts of the United States.

15 “(III) Information analyzing the
16 presence, activity, or movement of ter-
17 rorist organizations (as such term is
18 defined in section 212(a)(3)(B)(vi) of
19 the Immigration and Nationality Act
20 (8 U.S.C. 1182(a)(3)(B)(vi))) within
21 or through such country.

22 “(IV) The number of formal ob-
23 jections based on derogatory informa-
24 tion issued by the Visa Security Advi-
25 sory Opinion Unit pursuant to para-

1 graph (10) regarding nationals of a
2 country in which any of the diplomatic
3 and consular posts referred to in
4 clause (i) are located.

5 “(V) The adequacy of the border
6 and immigration control of such coun-
7 try.

8 “(VI) Any other criteria the Sec-
9 retary determines appropriate.”.

10 (b) COUNTERTERROR VETTING AND SCREENING.—

11 Paragraph (2) of section 428(e) of the Homeland Security
12 Act of 2002 is amended—

13 (1) by redesignating subparagraph (C) as sub-
14 paragraph (D); and

15 (2) by inserting after subparagraph (B) the fol-
16 lowing new subparagraph:

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

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

24 (1) striking “The Secretary shall ensure, to the
25 extent possible, that any employees” and inserting

1 “The Secretary, acting through the Commissioner of
2 U.S. Customs and Border Protection and the Direc-
3 tor of U.S. Immigration and Customs Enforcement,
4 shall provide training to any employees”; and

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

7 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
8 AND VISA SECURITY ADVISORY OPINION UNIT.—Sub-
9 section (e) of section 428 of the Homeland Security Act
10 of 2002 is amended by adding at the end the following
11 new paragraphs:

12 “(9) REMOTE PRE-ADJUDICATED VISA SECU-
13 RITY ASSISTANCE.—At the visa-issuing posts at
14 which employees of the Department are not assigned
15 pursuant to paragraph (1), the Secretary shall, in a
16 risk-based manner, assign employees of the Depart-
17 ment to remotely perform the functions required
18 under paragraph (2) at not fewer than 50 of such
19 posts.

20 “(10) VISA SECURITY ADVISORY OPINION
21 UNIT.—The Secretary shall establish within U.S.
22 Immigration and Customs Enforcement a Visa Secu-
23 rity Advisory Opinion Unit to respond to requests
24 from the Secretary of State to conduct a visa secu-
25 rity review using information maintained by the De-

1 partment on visa applicants, including terrorism as-
2 sociation, criminal history, counter-proliferation, and
3 other relevant factors, as determined by the Sec-
4 retary.”.

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

11 (f) FUNDING.—

12 (1) ADDITIONAL VISA FEE.—

13 (A) IN GENERAL.—The Secretary of State,
14 in consultation with the Secretary of Homeland
15 Security, may charge a fee in support of visa
16 security, to be deposited in the Fraud Detection
17 and Nationality Security Directorate account.
18 Fees imposed pursuant to this subsection shall
19 be available only to the extent provided in ad-
20 vance by appropriations Acts.

21 (B) AMOUNT OF FEE.—The total amount
22 of the additional fee charged pursuant to this
23 subsection shall be equal to an amount suffi-
24 cient to cover the annual costs of the visa secu-
25 rity program established by the Secretary of

1 Homeland Security under section 428(e) of the
2 Homeland Security Act of 2002 (6 U.S.C.
3 236(e)), as amended by this section.

4 (2) USE OF FEES.—Amounts deposited in the
5 Fraud Detection and Nationality Security Direc-
6 torate account pursuant to paragraph (1) are au-
7 thorized to be appropriated to the Secretary of
8 Homeland Security for the funding of the visa secu-
9 rity program referred to in such paragraph.

10 **SEC. 1302. ELECTRONIC PASSPORT SCREENING AND BIO-**
11 **METRIC MATCHING.**

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

16 **“SEC. 420A. ELECTRONIC PASSPORT SCREENING AND BIO-**
17 **METRIC MATCHING.**

18 “(a) IN GENERAL.—Not later than one year after the
19 date of the enactment of this section, the Commissioner
20 of U.S. Customs and Border Protection shall—

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

24 “(2) to the greatest extent practicable, utilize
25 facial recognition technology or other biometric tech-

1 nology, as determined by the Commissioner, to in-
2 spect travelers at United States airports of entry.

3 “(b) APPLICABILITY.—

4 “(1) ELECTRONIC PASSPORT SCREENING.—

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

12 “(2) FACIAL RECOGNITION MATCHING.—Para-

13 graph (2) of subsection (a) shall apply, at a min-
14 imum, to individuals who are nationals of a program
15 country pursuant to section 217 of the Immigration
16 and Nationality Act.

17 “(c) ANNUAL REPORT.—The Commissioner of U.S.

18 Customs and Border Protection, in collaboration with the
19 Chief Privacy Officer of the Department, shall issue to the
20 Committee on Homeland Security of the House of Rep-
21 resentatives and the Committee on Homeland Security
22 and Governmental Affairs of the Senate an annual report
23 through fiscal year 2028 on the utilization of facial rec-
24 ognition technology and other biometric technology pursu-
25 ant to subsection (a)(2). Each such report shall include

1 information on the type of technology used at each airport
2 of entry, the number of individuals who were subject to
3 inspection using either of such technologies at each airport
4 of entry, and within the group of individuals subject to
5 such inspection at each airport, the number of those indi-
6 viduals who were United States citizens and legal perma-
7 nent residents. Each such report shall provide information
8 on the disposition of data collected during the year covered
9 by such report, together with information on protocols for
10 the management of collected biometric data, including
11 timeframes and criteria for storing, erasing, destroying,
12 or otherwise removing such data from databases utilized
13 by the Department.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in section 1(b) of the Homeland Security Act of 2002 is
16 amended by inserting after the item relating to section
17 420 the following new item:

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

18 **SEC. 1303. REPORTING OF VISA OVERSTAYS.**

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

21 (1) in subsection (a)—

22 (A) by striking “Attorney General” and in-
23 serting “Secretary of Homeland Security”; and

24 (B) by inserting before the period at the
25 end the following: “, and any additional infor-

1 mation that the Secretary determines necessary
2 for purposes of the report under subsection
3 (b)”; and

4 (2) by amending subsection (b) to read as fol-
5 lows:

6 “(b) ANNUAL REPORT.—Not later than September
7 30, 2025, and not later than September 30 of each year
8 thereafter, the Secretary of Homeland Security shall sub-
9 mit to the Committee on Homeland Security and the Com-
10 mittee on the Judiciary of the House of Representatives
11 and to the Committee on Homeland Security and Govern-
12 mental Affairs and the Committee on the Judiciary of the
13 Senate a report providing, for the preceding fiscal year,
14 numerical estimates (including information on the meth-
15 odology utilized to develop such numerical estimates) of—

16 “(1) for each country, the number of aliens
17 from the country who are described in subsection
18 (a), including—

19 “(A) the total number of such aliens within
20 all classes of nonimmigrant aliens described in
21 section 101(a)(15) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1101(a)(15)); and

23 “(B) the number of such aliens within each
24 of the classes of nonimmigrant aliens, as well as
25 the number of such aliens within each of the

1 subclasses of such classes of nonimmigrant
2 aliens, as applicable;

3 “(2) for each country, the percentage of the
4 total number of aliens from the country who were
5 present in the United States and were admitted to
6 the United States as nonimmigrants who are de-
7 scribed in subsection (a);

8 “(3) the number of aliens described in sub-
9 section (a) who arrived by land at a port of entry
10 into the United States;

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

16 “(5) the number of Canadian nationals who en-
17 tered the United States without a visa whose author-
18 ized period of stay in the United States terminated
19 during the previous fiscal year, but who remained in
20 the United States.”.

21 **SEC. 1304. STUDENT AND EXCHANGE VISITOR INFORMA-**
22 **TION SYSTEM VERIFICATION.**

23 Not later than 90 days after the date of the enact-
24 ment of this Act, the Secretary of Homeland Security shall
25 ensure that the information collected under the program

1 established under section 641 of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of 1996 (8
3 U.S.C. 1372) is available to officers of U.S. Customs and
4 Border Protection for the purpose of conducting primary
5 inspections of aliens seeking admission to the United
6 States at each port of entry of the United States.

7 **SEC. 1305. VISA INFORMATION SHARING.**

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

10 (1) by striking “issuance or refusal” and insert-
11 ing “issuance, refusal, or revocation”;

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

20 (3) in paragraph (2)(A)—

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

23 (B) by inserting “(i)” after “for the pur-
24 pose of”; and

1 (C) by striking “illicit weapons; or” and
2 inserting “illicit weapons, or (ii) determining a
3 person’s deportability or eligibility for a visa,
4 admission, or other immigration benefit;”;

5 (4) in paragraph (2)(B)—

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

8 (B) by striking “in the database” and in-
9 serting “such database”;

10 (C) by striking “for the purposes” and in-
11 serting “for one of the purposes”; and

12 (D) by striking “or to deny visas to per-
13 sons who would be inadmissible to the United
14 States.” and inserting “; or”; and

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

17 “(C) with regard to any or all aliens in the
18 database specified data elements from each
19 record, if the Secretary of State determines that
20 it is in the national interest to provide such in-
21 formation to a foreign government and such in-
22 formation is provided in accordance with the
23 confidentiality requirements under section
24 208.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect 60 days after the date of
3 the enactment of this Act.

4 **SEC. 1306. FRAUD PREVENTION.**

5 (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

6 (1) PLAN FOR IMPLEMENTATION.—Not later
7 than 180 days after the date of the enactment of
8 this Act, the Secretary of Homeland Security shall
9 submit to the Committee on the Judiciary of the
10 House of Representatives and the Committee on the
11 Judiciary of the Senate a plan for the use of ad-
12 vanced analytics software to ensure the proactive de-
13 tection of fraud in immigration benefits applications
14 and petitions and to ensure that any such applicant
15 or petitioner does not pose a threat to national secu-
16 rity.

17 (2) IMPLEMENTATION OF PLAN.—Not later
18 than 1 year after the date of the submission of the
19 plan under paragraph (1), the Secretary of Home-
20 land Security shall begin implementation of the plan.

21 (b) BENEFITS FRAUD ASSESSMENT.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security, acting through the Fraud Detection and
24 Nationality Security Directorate, shall complete a

1 benefit fraud assessment by fiscal year 2025 on each
2 of the following:

3 (A) Petitions by VAWA self-petitioners (as
4 such term is defined in section 101(a)(51) of
5 the Immigration and Nationality Act (8 U.S.C.
6 1101(a)(51))).

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

11 (C) Applications for visas or status under
12 section 101(a)(27)(J) of such Act (8 U.S.C.
13 1101(a)(27)(J)).

14 (D) Applications for visas or status under
15 section 101(a)(15)(U) of such Act (8 U.S.C.
16 1101(a)(15)(U)).

17 (E) Petitions for visas or status under sec-
18 tion 101(a)(27)(C) of such Act (8 U.S.C.
19 1101(a)(27)(C)).

20 (F) Applications for asylum under section
21 208 of such Act (8 U.S.C. 1158).

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

24 (H) Petitions for visas or status under sec-
25 tion 201(b) of such Act (8 U.S.C. 1151(b)).

1 (2) REPORTING ON FINDINGS.—Not later than
2 30 days after the completion of each benefit fraud
3 assessment under paragraph (1), the Secretary shall
4 submit to the Committee on the Judiciary of the
5 House of Representatives and the Committee on the
6 Judiciary of the Senate such assessment and rec-
7 ommendations on how to reduce the occurrence of
8 instances of fraud identified by the assessment.

9 **SEC. 1307. VISA INELIGIBILITY FOR SPOUSES AND CHIL-**
10 **DREN OF DRUG TRAFFICKERS.**

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

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

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

19 **SEC. 1308. DNA TESTING.**

20 Section 222(b) of the Immigration and Nationality
21 Act (8 U.S.C. 1202(b)) is amended by inserting “Where
22 considered necessary, by the consular officer or immigra-
23 tion official, to establish family relationships, the immi-
24 grant shall provide DNA evidence of such a relationship
25 in accordance with procedures established for submitting

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

7 **SEC. 1309. DNA COLLECTION CONSISTENT WITH FEDERAL**
8 **LAW.**

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

18 **TITLE IV—TRANSNATIONAL**
19 **CRIMINAL ORGANIZATION**
20 **PREVENTION AND ELIMI-**
21 **NATION**

22 **SEC. 1401. SHORT TITLE.**

23 This title may be cited as the “Transnational Crimi-
24 nal 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 HARBORING 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

1 increased by up to 10 years if that person, at the
2 time of the offense, used or carried a firearm or
3 who, in furtherance of any such crime, possessed a
4 firearm.”.

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

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

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

19 **SEC. 1404. REPORT ON SMUGGLING.**

20 The Secretary of Homeland Security, in coordination
21 with the heads of appropriate Federal agencies, shall de-
22 velop a regularly updated intelligence driven analysis that
23 includes—

1 (1) migrant perceptions of United States law
2 and policy at the border, including human smuggling
3 organization messaging and propaganda;

4 (2) tactics, techniques, and procedures used by
5 human smuggling organizations to exploit border se-
6 curity vulnerabilities to facilitate such smuggling ac-
7 tivities across the border;

8 (3) the methods and use of technology to orga-
9 nize and encourage irregular migration and under-
10 mine border security; and

11 (4) any other information the Secretary deter-
12 mines appropriate.

13 **SEC. 1405. SARAH'S LAW.**

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

18 (1) in paragraph (1)—

19 (A) in subparagraphs (A) and (B), by
20 striking the comma at the end of each subpara-
21 graph and inserting a semicolon;

22 (B) in subparagraph (C)—

23 (i) by striking “sentence” and insert-
24 ing “sentenced”; and

1 (ii) by striking “, or” and inserting a
2 semicolon;

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

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

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

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

13 “(III) is described in section
14 237(a)(1)(C)(i); and

15 “(ii) has been charged by a prosecuting au-
16 thority in the United States with any crime
17 that resulted in the death or serious bodily in-
18 jury (as defined in section 1365(h)(3) of title
19 18, United States Code) of another person,”;
20 and

21 (2) by adding at the end the following:

22 “(3) NOTIFICATION REQUIREMENT.—Upon en-
23 counterering or gaining knowledge of an alien de-
24 scribed in paragraph (1), the Assistant Secretary of

1 Homeland Security for Immigration and Customs
2 Enforcement shall make reasonable efforts—

3 “(A) to obtain information from law en-
4 forcement agencies and from other available
5 sources regarding the identity of any victims of
6 the crimes for which such alien was charged or
7 convicted; and

8 “(B) to provide the victim or, if the victim
9 is deceased, a parent, guardian, spouse, or clos-
10 est living relative of such victim, with informa-
11 tion, on a timely and ongoing basis, including—

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

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

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

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

22 (b) SAVINGS PROVISION.—Nothing in this section, or
23 the amendments made by this section, may be construed
24 to limit the rights of crime victims under any other provi-

1 sion 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).

1 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
2 withstanding the penalty provided in subsection (a), if an
3 alien described in that subsection was convicted before
4 such removal or departure—

5 “(1) for 3 or more misdemeanors or for a fel-
6 ony, the alien shall be fined under title 18, United
7 States Code, imprisoned not more than 15 years, or
8 both;

9 “(2) for a felony for which the alien was sen-
10 tenced to a term of imprisonment of not less than
11 30 months, the alien shall be fined under such title,
12 imprisoned not more than 20 years, or both;

13 “(3) for a felony for which the alien was sen-
14 tenced to a term of imprisonment of not less than
15 60 months, the alien shall be fined under such title,
16 imprisoned not more than 25 years, or both; or

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

23 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
24 alien who has been denied admission, excluded, deported,
25 or removed 3 or more times and thereafter enters, at-

1 tempts to enter, crosses the border to, attempts to cross
2 the border to, or is at any time found in the United States,
3 shall be fined under title 18, United States Code, impris-
4 oned not more than 20 years, or both.

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

10 “(1) alleged in the indictment or information;
11 and

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

14 “(e) REENTRY OF ALIEN REMOVED PRIOR TO COM-
15 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
16 moved pursuant to section 241(a)(4) who enters, attempts
17 to enter, crosses the border to, attempts to cross the bor-
18 der to, or is at any time found in, the United States shall
19 be incarcerated for the remainder of the sentence of im-
20 prisonment which was pending at the time of deportation
21 without any reduction for parole or supervised release un-
22 less the alien affirmatively demonstrates that the Sec-
23 retary of Homeland Security has expressly consented to
24 the alien’s reentry. Such alien shall be subject to such
25 other penalties relating to the reentry of removed aliens

1 as may be available under this section or any other provi-
2 sion of law.

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

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

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

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

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

24 “(5) REMOVAL.—The term ‘removal’ includes
25 any denial of admission, exclusion, deportation, or

1 removal, or any agreement by which an alien stipu-
2 lates or agrees to exclusion, deportation, or removal.

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

7 **SEC. 1407. GROUNDS OF INADMISSIBILITY AND DEPORT-**
8 **ABILITY FOR ALIEN GANG MEMBERS.**

9 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)) is amended by inserting after paragraph (52) the
12 following:

13 “(53)(A) The term ‘criminal gang’ means an associa-
14 tion of 25 or more individuals—

15 “(i) whose members knowingly, willingly, and
16 collectively identify themselves by adopting a group
17 identity, which they use to create an atmosphere of
18 fear or intimidation, frequently by employing one or
19 more of the following: a common name, slogan, iden-
20 tifying sign, symbol, tattoo or other physical mark-
21 ing, style or color of clothing, hairstyle, hand sign or
22 graffiti;

23 “(ii) whose purpose in part is to engage in
24 criminal activity and which uses violence or intima-
25 tion to further its criminal objectives; and

1 “(iii) whose members engage in criminal activ-
2 ity or acts of juvenile delinquency that if committed
3 by an adult would be crimes with the intent to en-
4 hance or preserve the association’s power, reputation
5 or economic resources.

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

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

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

12 “(iii) The association may provide physical pro-
13 tection of its members from others.

14 “(iv) The association may seek to exercise con-
15 trol over a particular geographic location or region,
16 or it may simply defend its perceived interests
17 against rivals.

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

20 “(C) The offenses described, whether in violation of
21 Federal or State law or foreign law and regardless of
22 whether the offenses occurred before, on, or after the date
23 of the enactment of this paragraph, are the following:

1 “(i) A ‘felony drug offense’ (as defined in sec-
2 tion 102 of the Controlled Substances Act (21
3 U.S.C. 802)).

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

8 “(iii) An offense under section 274 (relating to
9 bringing in and harboring certain aliens), section
10 277 (relating to aiding or assisting certain aliens to
11 enter the United States), or section 278 (relating to
12 importation of alien for immoral purpose), except
13 that this clause does not apply in the case of an or-
14 ganization described in section 501(c)(3) of the In-
15 ternal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
16 which is exempt from taxation under section 501(a)
17 of such Code.

18 “(iv) A violent crime described in section
19 101(a)(43)(F).

20 “(v) A crime involving obstruction of justice,
21 tampering with or retaliating against a witness, vic-
22 tim, or informant, or perjury or subornation of per-
23 jury.

24 “(vi) Any conduct punishable under sections
25 1028A and 1029 of title 18, United States Code (re-

1 relating to aggravated identity theft or fraud and re-
2 lated activity in connection with identification docu-
3 ments or access devices), sections 1581 through
4 1594 of such title (relating to peonage, slavery, and
5 trafficking in persons), section 1951 of such title
6 (relating to interference with commerce by threats or
7 violence), section 1952 of such title (relating to
8 interstate and foreign travel or transportation in aid
9 of racketeering enterprises), section 1956 of such
10 title (relating to the laundering of monetary instru-
11 ments), section 1957 of such title (relating to engag-
12 ing in monetary transactions in property derived
13 from specified unlawful activity), or sections 2312
14 through 2315 of such title (relating to interstate
15 transportation of stolen motor vehicles or stolen
16 property).

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

22 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
23 (8 U.S.C. 1182(a)(2)) is amended—

24 (1) in subparagraph (A)(i)—

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

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

5 “(III) a violation of (or a con-
6 spiracy or attempt to violate) any law
7 or regulation of a State, the United
8 States, or a foreign country relating
9 to participation or membership in a
10 criminal gang, or

11 “(IV) any felony or misdemeanor
12 offense for which the alien received a
13 sentencing enhancement predicated on
14 knowing gang membership or conduct
15 that promoted, furthered, aided, or
16 supported the illegal activity of the
17 criminal gang, except in the case of
18 any such alien who was a minor under
19 the age of 16 at the time of the of-
20 fense, who was forced, threatened, or
21 coerced into association with the
22 criminal gang, who was unknowingly
23 associated with the gang, or who
24 acted under duress.”; and

25 (2) by adding at the end the following:

1 “(N) ALIENS ASSOCIATED WITH CRIMINAL
2 GANGS.—

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

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

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

15 “(bb) to have participated in
16 the activities of a criminal gang
17 (as defined in section
18 101(a)(53)), knowing or having
19 reason to know that such activi-
20 ties will promote, further, aid, or
21 support the illegal activity of the
22 criminal gang.

23 “(II) That alien is inadmissible if
24 a consular officer, the Secretary of
25 Homeland Security, or the Attorney

1 General has reasonable grounds to be-
2 lieve the alien has participated in,
3 been a member of, promoted, or con-
4 spired with a criminal gang, either in-
5 side or outside of the United States.

6 “(III) That alien is inadmissible
7 if a consular officer, an immigration
8 officer, the Secretary of Homeland Se-
9 curity, or the Attorney General has
10 reasonable grounds to believe seeks to
11 enter the United States or has en-
12 tered the United States in furtherance
13 of the activities of a criminal gang, ei-
14 ther inside or outside of the United
15 States.

16 “(ii) ALIENS PHYSICALLY PRESENT IN THE
17 UNITED STATES.—In the case of an alien who
18 is physically present in the United States, that
19 alien is inadmissible if the alien—

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

22 “(II) has participated in the activities
23 of a criminal gang (as defined in section
24 101(a)(53)), knowing or having reason to
25 know that such activities will promote, fur-

1 ther, aid, or support the illegal activity of
2 the criminal gang.

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

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

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

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

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

23 “(H) ALIENS ASSOCIATED WITH CRIMINAL
24 GANGS.—

1 “(i) IN GENERAL.—Any alien is de-
2 portable who—

3 “(I) is or has been a member of
4 a criminal gang (as defined in section
5 101(a)(53));

6 “(II) has participated in the ac-
7 tivities of a criminal gang (as so de-
8 fined), knowing or having reason to
9 know that such activities will promote,
10 further, aid, or support the illegal ac-
11 tivity of the criminal gang;

12 “(III) has been convicted of a
13 violation of (or a conspiracy or at-
14 tempt to violate) any law or regulation
15 of a State, the United States, or a
16 foreign country relating to participa-
17 tion or membership in a criminal
18 gang; or

19 “(IV) any felony or misdemeanor
20 offense for which the alien received a
21 sentencing enhancement predicated on
22 gang membership or conduct that pro-
23 moted, furthered, aided, or supported
24 the illegal activity of the criminal
25 gang.

1 “(ii) EXCEPTION.—Clause (i) does not
2 apply to a spouse or child of an alien—

3 “(I) who did not know or should
4 not reasonably have known of the ac-
5 tivity causing the alien to be found in-
6 admissible under this section;

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

12 “(III) whom the consular officer
13 or Attorney General has reasonable
14 grounds to believe did not willingly
15 participate in the activity of the asso-
16 ciated gang, was under the direct con-
17 trol of a member, or did so under du-
18 ress.”.

19 (d) DESIGNATION.—

20 (1) IN GENERAL.—Chapter 2 of title II of the
21 Immigration and Nationality Act (8 U.S.C. 1182) is
22 amended by inserting after section 219 the fol-
23 lowing:

24 “DESIGNATION OF CRIMINAL GANG

25 “SEC. 220.

26 “(a) DESIGNATION.—

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

6 “(2) PROCEDURE.—

7 “(A) NOTIFICATION.—60 days before making a
8 designation under this subsection, the Secretary
9 shall, by classified communication, notify the Speak-
10 er and Minority Leader of the House of Representa-
11 tives, the President pro tempore, Majority Leader,
12 and Minority Leader of the Senate, and the mem-
13 bers of the relevant committees of the House of Rep-
14 resentatives and the Senate, in writing, of the intent
15 to designate a group, club, organization, or associa-
16 tion of 25 or more persons under this subsection and
17 the factual basis therefor.

18 “(B) PUBLICATION IN THE FEDERAL REG-
19 ISTER.—The Secretary shall publish the designation
20 in the Federal Register seven days after providing
21 the notification under subparagraph (A).

22 “(3) RECORD.—

23 “(A) IN GENERAL.—In making a designation
24 under this subsection, the Secretary shall create an
25 administrative record.

1 “(B) CLASSIFIED INFORMATION.—The Sec-
2 retary may consider classified information in making
3 a designation under this subsection. Classified infor-
4 mation shall not be subject to disclosure for such
5 time as it remains classified, except that such infor-
6 mation may be disclosed to a court ex parte and in
7 camera for purposes of judicial review under sub-
8 section (c).

9 “(4) PERIOD OF DESIGNATION.—

10 “(A) IN GENERAL.—A designation under this
11 subsection shall be effective for all purposes until re-
12 voked under paragraph (5) or (6) or set aside pursu-
13 ant to subsection (c).

14 “(B) REVIEW OF DESIGNATION UPON PETI-
15 TION.—

16 “(i) IN GENERAL.—The Secretary shall re-
17 view the designation of a criminal gang under
18 the procedures set forth in clauses (iii) and (iv)
19 if the designated group, club, organization, or
20 association of 25 or more persons files a peti-
21 tion for revocation within the petition period de-
22 scribed in clause (ii).

23 “(ii) PETITION PERIOD.—For purposes of
24 clause (i)—

1 “(I) if the designated group, club, or-
2 ganization, or association of 25 or more
3 persons has not previously filed a petition
4 for revocation under this subparagraph,
5 the petition period begins 2 years after the
6 date on which the designation was made;
7 or

8 “(II) if the designated group, club, or-
9 ganization, or association of 25 or more
10 persons has previously filed a petition for
11 revocation under this subparagraph, the
12 petition period begins 2 years after the
13 date of the determination made under
14 clause (iv) on that petition.

15 “(iii) PROCEDURES.—Any group, club, or-
16 ganization, or association of 25 or more persons
17 that submits a petition for revocation under
18 this subparagraph of its designation as a crimi-
19 nal gang must provide evidence in that petition
20 that it is not described in section 101(a)(53).

21 “(iv) DETERMINATION.—

22 “(I) IN GENERAL.—Not later than 60
23 days after receiving a petition for revoca-
24 tion submitted under this subparagraph,

1 the Secretary shall make a determination
2 as to such revocation.

3 “(II) CLASSIFIED INFORMATION.—

4 The Secretary may consider classified in-
5 formation in making a determination in re-
6 sponse to a petition for revocation. Classi-
7 fied information shall not be subject to dis-
8 closure for such time as it remains classi-
9 fied, except that such information may be
10 disclosed to a court ex parte and in camera
11 for purposes of judicial review under sub-
12 section (c).

13 “(III) PUBLICATION OF DETERMINA-
14 TION.—A determination made by the Sec-
15 retary under this clause shall be published
16 in the Federal Register.

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

20 “(C) OTHER REVIEW OF DESIGNATION.—

21 “(i) IN GENERAL.—If in a 5-year period no
22 review has taken place under subparagraph (B),
23 the Secretary shall review the designation of the
24 criminal gang in order to determine whether

1 such designation should be revoked pursuant to
2 paragraph (6).

3 “(ii) PROCEDURES.—If a review does not
4 take place pursuant to subparagraph (B) in re-
5 sponse to a petition for revocation that is filed
6 in accordance with that subparagraph, then the
7 review shall be conducted pursuant to proce-
8 dures established by the Secretary. The results
9 of such review and the applicable procedures
10 shall not be reviewable in any court.

11 “(iii) PUBLICATION OF RESULTS OF RE-
12 VIEW.—The Secretary shall publish any deter-
13 mination made pursuant to this subparagraph
14 in the Federal Register.

15 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
16 gress, by an Act of Congress, may block or revoke a des-
17 ignation made under paragraph (1).

18 “(6) REVOCATION BASED ON CHANGE IN CIR-
19 CUMSTANCES.—

20 “(A) IN GENERAL.—The Secretary may revoke
21 a designation made under paragraph (1) at any
22 time, and shall revoke a designation upon completion
23 of a review conducted pursuant to subparagraphs
24 (B) and (C) of paragraph (4) if the Secretary finds
25 that—

1 “(i) the group, club, organization, or asso-
2 ciation of 25 or more persons that has been
3 designated as a criminal gang is no longer de-
4 scribed in section 101(a)(53); or

5 “(ii) the national security or the law en-
6 forcement interests of the United States war-
7 rants a revocation.

8 “(B) PROCEDURE.—The procedural require-
9 ments of paragraphs (2) and (3) shall apply to a
10 revocation under this paragraph. Any revocation
11 shall take effect on the date specified in the revoca-
12 tion or upon publication in the Federal Register if
13 no effective date is specified.

14 “(7) EFFECT OF REVOCATION.—The revocation of a
15 designation under paragraph (5) or (6) shall not affect
16 any action or proceeding based on conduct committed
17 prior to the effective date of such revocation.

18 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
19 ING.—If a designation under this subsection has become
20 effective under paragraph (2) an alien in a removal pro-
21 ceeding shall not be permitted to raise any question con-
22 cerning the validity of the issuance of such designation
23 as a defense or an objection.

24 “(b) AMENDMENTS TO A DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary may amend
2 a designation under this subsection if the Secretary
3 finds that the group, club, organization, or associa-
4 tion of 25 or more persons has changed its name,
5 adopted a new alias, dissolved and then reconsti-
6 tuted itself under a different name or names, or
7 merged with another group, club, organization, or
8 association of 25 or more persons.

9 “(2) PROCEDURE.—Amendments made to a
10 designation in accordance with paragraph (1) shall
11 be effective upon publication in the Federal Register.
12 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
13 section (a) shall also apply to an amended designa-
14 tion.

15 “(3) ADMINISTRATIVE RECORD.—The adminis-
16 trative record shall be corrected to include the
17 amendments as well as any additional relevant infor-
18 mation that supports those amendments.

19 “(4) CLASSIFIED INFORMATION.—The Sec-
20 retary may consider classified information in amend-
21 ing a designation in accordance with this subsection.
22 Classified information shall not be subject to disclo-
23 sure for such time as it remains classified, except
24 that such information may be disclosed to a court ex

1 parte and in camera for purposes of judicial review
2 under subsection (c) of this section.

3 “(c) JUDICIAL REVIEW OF DESIGNATION.—

4 “(1) IN GENERAL.—Not later than 30 days
5 after publication in the Federal Register of a des-
6 ignation, an amended designation, or a determina-
7 tion in response to a petition for revocation, the des-
8 ignated group, club, organization, or association of
9 25 or more persons may seek judicial review in the
10 United States Court of Appeals for the District of
11 Columbia Circuit.

12 “(2) BASIS OF REVIEW.—Review under this
13 subsection shall be based solely upon the administra-
14 tive record, except that the Government may submit,
15 for ex parte and in camera review, classified infor-
16 mation used in making the designation, amended
17 designation, or determination in response to a peti-
18 tion for revocation.

19 “(3) SCOPE OF REVIEW.—The Court shall hold
20 unlawful and set aside a designation, amended des-
21 ignation, or determination in response to a petition
22 for revocation the court finds to be—

23 “(A) arbitrary, capricious, an abuse of dis-
24 cretion, or otherwise not in accordance with
25 law;

1 “(B) contrary to constitutional right,
2 power, privilege, or immunity;

3 “(C) in excess of statutory jurisdiction, au-
4 thority, or limitation, or short of statutory
5 right;

6 “(D) lacking substantial support in the ad-
7 ministrative record taken as a whole or in clas-
8 sified information submitted to the court under
9 paragraph (2); or

10 “(E) not in accord with the procedures re-
11 quired by law.

12 “(4) JUDICIAL REVIEW INVOKED.—The pend-
13 ency of an action for judicial review of a designation,
14 amended designation, or determination in response
15 to a petition for revocation shall not affect the appli-
16 cation of this section, unless the court issues a final
17 order setting aside the designation, amended des-
18 ignation, or determination in response to a petition
19 for revocation.

20 “(d) DEFINITIONS.—As used in this section—

21 “(1) the term ‘classified information’ has the
22 meaning given that term in section 1(a) of the Clas-
23 sified Information Procedures Act (18 U.S.C. App.);

1 “(2) the term ‘national security’ means the na-
2 tional defense, foreign relations, or economic inter-
3 ests of the United States;

4 “(3) the term ‘relevant committees’ means the
5 Committees on the Judiciary of the Senate and of
6 the House of Representatives; and

7 “(4) the term ‘Secretary’ means the Secretary
8 of Homeland Security, in consultation with the At-
9 torney General.”.

10 (2) CLERICAL AMENDMENT.—The table of con-
11 tents for such Act is amended by inserting after the
12 item relating to section 219 the following:

“Sec. 220. Designation of criminal gang.”.

13 (e) MANDATORY DETENTION OF CRIMINAL GANG
14 MEMBERS.—

15 (1) IN GENERAL.—Section 236(c)(1) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1226(c)(1)), as amended by this division, is further
18 amended—

19 (A) in subparagraph (E), by striking “or”
20 at the end;

21 (B) in subparagraph (F), by inserting “or”
22 at the end; and

23 (C) by inserting after subparagraph (F)
24 the following:

1 “(G) is inadmissible under section
2 212(a)(2)(N) or deportable under section
3 237(a)(2)(H),”.

4 (2) ANNUAL REPORT.—Not later than March 1
5 of each year (beginning 1 year after the date of the
6 enactment of this Act), the Secretary of Homeland
7 Security, after consultation with the appropriate
8 Federal agencies, shall submit a report to the Com-
9 mittees on the Judiciary of the House of Represent-
10 atives and of the Senate on the number of aliens de-
11 tained under the amendments made by paragraph
12 (1).

13 **SEC. 1408. MANDATORY MINIMUM PENALTY FOR CHILD SEX**
14 **TRAFFICKING.**

15 Section 1591(b) of title 18, United States Code, is
16 amended—

17 (1) in paragraph (1), by striking “15” and in-
18 serting “25”; and

19 (2) in paragraph (2), by striking “10 years”
20 and inserting “25 years”.

21 **SEC. 1409. DESIGNATION OF CERTAIN DRUG CARTELS AS**
22 **SPECIAL TRANSNATIONAL CRIMINAL ORGA-**
23 **NIZATION.**

24 (a) DESIGNATION.—

1 (1) IN GENERAL.—The Secretary is authorized
2 to designate an organization as a foreign Special
3 Transnational Criminal Organization in accordance
4 with this subsection if the Secretary finds that—

5 (A) the organization is a foreign organiza-
6 tion;

7 (B) the organization is a self-perpetuating
8 association of individuals who operate
9 transnationally for the purpose of obtaining
10 power, influence, monetary, or commercial
11 gains, wholly or in part by illegal means, while
12 protecting their activities through a pattern of
13 corruption or violence or through a
14 transnational organization structure and the ex-
15 ploitation of transnational commerce or commu-
16 nication mechanisms; and

17 (C) the organization threatens the security
18 of United States nationals or the national secu-
19 rity of the United States.

20 (2) PROCEDURE.—

21 (A) NOTICE.—

22 (i) TO CONGRESSIONAL LEADERS.—
23 Seven days before making a designation
24 under this subsection, the Secretary shall,
25 by classified communication, notify the

1 Speaker and minority leader of the House
2 of Representatives, the President pro tem-
3 pore, majority leader, and minority leader
4 of the Senate, and the members of the rel-
5 evant committees of the House of Rep-
6 resentatives and the Senate, in writing, of
7 the intent to designate an organization
8 under this subsection, together with the
9 findings made under paragraph (1) with
10 respect to that organization, and the fac-
11 tual basis therefor.

12 (ii) PUBLICATION IN FEDERAL REG-
13 ISTER.—The Secretary shall publish the
14 designation in the Federal Register seven
15 days after providing the notification under
16 clause (i).

17 (B) EFFECT OF DESIGNATION.—An orga-
18 nization designated as a foreign Special
19 Transnational Criminal Organization shall un-
20 dergo a full review by the Department of Treas-
21 ury of authorities granted by the Foreign Nar-
22 cotics Kingpin Designation Act (21 U.S.C.
23 1901 et seq.).

24 (C) FREEZING OF ASSETS.—Upon notifica-
25 tion under paragraph (2)(A)(i), the Secretary of

1 the Treasury may require United States finan-
2 cial institutions possessing or controlling any
3 assets of any foreign organization included in
4 the notification to block all financial trans-
5 actions involving those assets until further di-
6 rective from either the Secretary of the Treas-
7 ury, Act of Congress, or order of court.

8 (3) RECORD.—

9 (A) IN GENERAL.—In making a designa-
10 tion under this subsection, the Secretary shall
11 create an administrative record.

12 (B) CLASSIFIED INFORMATION.—The Sec-
13 retary may consider classified information in
14 making a designation under this subsection.
15 Classified information shall not be subject to
16 disclosure for such time as it remains classified,
17 except that such information may be disclosed
18 to a court *ex parte* and *in camera* for purposes
19 of judicial review under subsection (c).

20 (4) PERIOD OF DESIGNATION.—

21 (A) IN GENERAL.—A designation under
22 this subsection shall be effective until revoked
23 under paragraph (5) or (6) or set aside pursu-
24 ant to subsection (c).

1 (B) REVIEW OF DESIGNATION UPON PETI-
2 TION.—

3 (i) IN GENERAL.—The Secretary shall
4 review the designation of a foreign Special
5 Transnational Criminal Organization
6 under the procedures set forth in clauses
7 (iii) and (iv) if the designated organization
8 files a petition for revocation within the pe-
9 tition period described in clause (ii).

10 (ii) PETITION PERIOD.—For purposes
11 of clause (i)—

12 (I) if the designated organization
13 has not previously filed a petition for
14 revocation under this subparagraph,
15 the petition period begins 2 years
16 after the date on which the designa-
17 tion was made; or

18 (II) if the designated organiza-
19 tion has previously filed a petition for
20 revocation under this subparagraph,
21 the petition period begins 2 years
22 after the date of the determination
23 made under clause (iv) on that peti-
24 tion.

1 (iii) PROCEDURES.—Any foreign Spe-
2 cial Transnational Criminal Organization
3 that submits a petition for revocation
4 under this subparagraph must provide evi-
5 dence in that petition that the relevant cir-
6 cumstances described in paragraph (1) are
7 sufficiently different from the cir-
8 cumstances that were the basis for the des-
9 ignation such that a revocation with re-
10 spect to the organization is warranted.

11 (iv) DETERMINATION.—

12 (I) IN GENERAL.—Not later than
13 180 days after receiving a petition for
14 revocation submitted under this sub-
15 paragraph, the Secretary shall make a
16 determination as to such revocation.

17 (II) CLASSIFIED INFORMA-
18 TION.—The Secretary may consider
19 classified information in making a de-
20 termination in response to a petition
21 for revocation. Classified information
22 shall not be subject to disclosure for
23 such time as it remains classified, ex-
24 cept that such information may be
25 disclosed to a court ex parte and in

1 camera for purposes of judicial review
2 under subsection (c).

3 (III) PUBLICATION OF DETER-
4 MINATION.—A determination made by
5 the Secretary under this clause shall
6 be published in the Federal Register.

7 (IV) PROCEDURES.—Any revoca-
8 tion by the Secretary shall be made in
9 accordance with paragraph (6).

10 (C) OTHER REVIEW OF DESIGNATION.—

11 (i) IN GENERAL.—If the Secretary de-
12 termines that a 5-year period has elapsed
13 since the designation without a review hav-
14 ing taken place under subparagraph (B),
15 the Secretary shall review the designation
16 of the foreign Special Transnational Crimi-
17 nal Organization in order to determine
18 whether such designation should be re-
19 voked pursuant to paragraph (6).

20 (ii) PROCEDURES.—If a review does
21 not take place pursuant to subparagraph
22 (B) in response to a petition for revocation
23 that is filed in accordance with that sub-
24 paragraph, then the review shall be con-
25 ducted pursuant to procedures established

1 by the Secretary. The results of such re-
2 view and the applicable procedures shall
3 not be reviewable in any court.

4 (iii) PUBLICATION OF RESULTS OF
5 REVIEW.—The Secretary shall publish any
6 determination made pursuant to this sub-
7 paragraph in the Federal Register.

8 (5) REVOCATION BY ACT OF CONGRESS.—The
9 Congress, by an Act of Congress, may block or re-
10 voke a designation made under paragraph (1).

11 (6) REVOCATION BASED ON CHANGE IN CIR-
12 CUMSTANCES.—

13 (A) IN GENERAL.—The Secretary may re-
14 voke a designation made under paragraph (1)
15 at any time, and shall revoke a designation
16 upon completion of a review conducted pursu-
17 ant to subparagraphs (B) and (C) of paragraph
18 (4) if the Secretary finds that—

19 (i) the circumstances that were the
20 basis for the designation have changed in
21 such a manner as to warrant revocation; or

22 (ii) the national security of the United
23 States warrants a revocation.

24 (B) PROCEDURE.—The procedural require-
25 ments of paragraphs (2) and (3) shall apply to

1 a revocation under this paragraph. Any revoca-
2 tion shall take effect on the date specified in
3 the revocation or upon publication in the Fed-
4 eral Register if no effective date is specified.

5 (7) EFFECT OF REVOCATION.—The revocation
6 of a designation under paragraph (5) or (6) shall
7 not affect any action or proceeding based on conduct
8 occurring prior to the effective date of such revoca-
9 tion.

10 (8) USE OF DESIGNATION IN TRIAL OR HEAR-
11 ING.—If a designation under this subsection has be-
12 come effective under paragraph (2)(B) a defendant
13 in a criminal action or an alien in a removal pro-
14 ceeding shall not be permitted to raise any question
15 concerning the validity of the issuance of such des-
16 ignation as a defense or an objection at any trial or
17 hearing.

18 (b) AMENDMENTS TO A DESIGNATION.—

19 (1) IN GENERAL.—The Secretary may amend a
20 designation under this subsection if the Secretary
21 finds that the organization has changed its name,
22 adopted a new alias, dissolved and then reconsti-
23 tuted itself under a different name or names, or
24 merged with another organization.

1 (2) PROCEDURE.—Amendments made to a des-
2 ignation in accordance with paragraph (1) shall be
3 effective upon publication in the Federal Register.
4 Subparagraphs (B) and (C) of subsection (a)(2)
5 shall apply to an amended designation upon such
6 publication. Paragraphs (2)(A)(i), (4), (5), (6), (7),
7 and (8) of subsection (a) shall also apply to an
8 amended designation.

9 (3) ADMINISTRATIVE RECORD.—The adminis-
10 trative record shall be corrected to include the
11 amendments as well as any additional relevant infor-
12 mation that supports those amendments.

13 (4) CLASSIFIED INFORMATION.—The Secretary
14 may consider classified information in amending a
15 designation in accordance with this subsection. Clas-
16 sified information shall not be subject to disclosure
17 for such time as it remains classified, except that
18 such information may be disclosed to a court ex
19 parte and in camera for purposes of judicial review
20 under subsection (c).

21 (c) JUDICIAL REVIEW OF DESIGNATION.—

22 (1) IN GENERAL.—Not later than 30 days after
23 publication in the Federal Register of a designation,
24 an amended designation, or a determination in re-
25 sponse to a petition for revocation, the designated

1 organization may seek judicial review in the United
2 States Court of Appeals for the District of Columbia
3 Circuit.

4 (2) BASIS OF REVIEW.—Review under this sub-
5 section shall be based solely upon the administrative
6 record, except that the Government may submit, for
7 ex parte and in camera review, classified information
8 used in making the designation, amended designa-
9 tion, or determination in response to a petition for
10 revocation.

11 (3) SCOPE OF REVIEW.—The Court shall hold
12 unlawful and set aside a designation, amended des-
13 igation, or determination in response to a petition
14 for revocation the court finds to be—

15 (A) arbitrary, capricious, an abuse of dis-
16 cretion, or otherwise not in accordance with
17 law;

18 (B) contrary to constitutional right, power,
19 privilege, or immunity;

20 (C) in excess of statutory jurisdiction, au-
21 thority, or limitation, or short of statutory
22 right;

23 (D) lacking substantial support in the ad-
24 ministrative record taken as a whole or in clas-

1 sified information submitted to the court under
2 paragraph (2); or

3 (E) not in accord with the procedures re-
4 quired by law.

5 (4) JUDICIAL REVIEW INVOKED.—The pend-
6 ency of an action for judicial review of a designation,
7 amended designation, or determination in response
8 to a petition for revocation shall not affect the appli-
9 cation of this section, unless the court issues a final
10 order setting aside the designation, amended des-
11 ignation, or determination in response to a petition
12 for revocation.

13 (d) DEFINITIONS.—As used in this section—

14 (1) the term “classified information” has the
15 meaning given that term in section 1(a) of the Clas-
16 sified Information Procedures Act (18 U.S.C. App.);

17 (2) the term “national security” means the na-
18 tional defense, foreign relations, or economic inter-
19 ests of the United States;

20 (3) the term “foreign organization” includes a
21 group of persons or an organization whose leader-
22 ship is primarily based in a country outside of the
23 United States;

24 (4) the term “relevant committees” means the
25 Committees on the Judiciary, Intelligence, and For-

1 eign Relations of the Senate and the Committees on
2 the Judiciary, Intelligence, and International Rela-
3 tions of the House of Representatives; and

4 (5) the term “Secretary” means the Secretary
5 of State, in consultation with the Secretary of the
6 Treasury and the Attorney General.

7 (e) DESIGNATION.—The Secretary shall designate
8 the following organizations, and any similarly situated
9 Mexican drug cartel the Secretary deems appropriate, as
10 Special Transnational Criminal Organizations:

- 11 (1) Sinaloa Cartel.
- 12 (2) Jalisco New Generation Cartel.
- 13 (3) Beltran-Leyva Organization.
- 14 (4) Cartel del Noreste and Los Zetas.
- 15 (5) Guerreros Unidos.
- 16 (6) Gulf Cartel.
- 17 (7) Juarez Cartel and La Linea.
- 18 (8) La Familia Michoacana.
- 19 (9) Los Rojos.
- 20 (10) Tijuana Cartel.
- 21 (11) Las Moicas.
- 22 (12) Los Caballeros Templarios.

23 **TITLE V—MANDATORY E-VERIFY**

24 **SEC. 1501. SHORT TITLE.**

25 This title may be cited as the “Legal Workforce Act”.

1 **SEC. 1502. EMPLOYMENT ELIGIBILITY VERIFICATION**
2 **PROCESS.**

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

6 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
7 PROCESS.—

8 “(1) NEW HIRES, RECRUITMENT, AND REFER-
9 RAL.—The requirements referred to in paragraphs
10 (1)(B) and (3) of subsection (a) are, in the case of
11 a person or other entity hiring, recruiting, or refer-
12 ring an individual for employment in the United
13 States, the following:

14 “(A) ATTESTATION AFTER EXAMINATION
15 OF DOCUMENTATION.—

16 “(i) ATTESTATION.—During the
17 verification period (as defined in subpara-
18 graph (E)), the person or entity shall at-
19 test, under penalty of perjury and on a
20 form, including electronic and telephonic
21 formats, designated or established by the
22 Secretary by regulation not later than 6
23 months after the date of the enactment of
24 the Legal Workforce Act, that it has
25 verified that the individual is not an unau-
26 thorized alien by—

1 “(I) obtaining from the indi-
2 vidual the individual’s social security
3 account number or United States
4 passport number and recording the
5 number on the form (if the individual
6 claims to have been issued such a
7 number), and, if the individual does
8 not attest to United States nationality
9 under subparagraph (B), obtaining
10 such identification or authorization
11 number established by the Depart-
12 ment of Homeland Security for the
13 alien as the Secretary of Homeland
14 Security may specify, and recording
15 such number on the form; and

16 “(II) examining—

17 “(aa) a document relating to
18 the individual presenting it de-
19 scribed in clause (ii); or

20 “(bb) a document relating to
21 the individual presenting it de-
22 scribed in clause (iii) and a docu-
23 ment relating to the individual
24 presenting it described in clause
25 (iv).

1 “(ii) DOCUMENTS EVIDENCING EM-
2 PLOYMENT AUTHORIZATION AND ESTAB-
3 LISHING IDENTITY.—A document de-
4 scribed in this subparagraph is an individ-
5 ual’s—

6 “(I) unexpired United States
7 passport or passport card;

8 “(II) unexpired permanent resi-
9 dent card that contains a photograph;

10 “(III) unexpired employment au-
11 thorization card that contains a pho-
12 tograph;

13 “(IV) in the case of a non-
14 immigrant alien authorized to work
15 for a specific employer incident to sta-
16 tus, a foreign passport with Form I-
17 94 or Form I-94A, or other docu-
18 mentation as designated by the Sec-
19 retary specifying the alien’s non-
20 immigrant status as long as the pe-
21 riod of status has not yet expired and
22 the proposed employment is not in
23 conflict with any restrictions or limita-
24 tions identified in the documentation;

1 “(V) passport from the Fed-
2 erated States of Micronesia (FSM) or
3 the Republic of the Marshall Islands
4 (RMI) with Form I-94 or Form I-
5 94A, or other documentation as des-
6 ignated by the Secretary, indicating
7 nonimmigrant admission under the
8 Compact of Free Association Between
9 the United States and the FSM or
10 RMI; or

11 “(VI) other document designated
12 by the Secretary of Homeland Secu-
13 rity, if the document—

14 “(aa) contains a photograph
15 of the individual and biometric
16 identification data from the indi-
17 vidual and such other personal
18 identifying information relating
19 to the individual as the Secretary
20 of Homeland Security finds, by
21 regulation, sufficient for purposes
22 of this clause;

23 “(bb) is evidence of author-
24 ization of employment in the
25 United States; and

1 “(cc) contains security fea-
2 tures to make it resistant to tam-
3 pering, counterfeiting, and fraud-
4 ulent use.

5 “(iii) DOCUMENTS EVIDENCING EM-
6 PLOYMENT AUTHORIZATION.—A document
7 described in this subparagraph is an indi-
8 vidual’s social security account number
9 card (other than such a card which speci-
10 fies on the face that the issuance of the
11 card does not authorize employment in the
12 United States).

13 “(iv) DOCUMENTS ESTABLISHING
14 IDENTITY OF INDIVIDUAL.—A document
15 described in this subparagraph is—

16 “(I) an individual’s unexpired
17 State issued driver’s license or identi-
18 fication card if it contains a photo-
19 graph and information such as name,
20 date of birth, gender, height, eye
21 color, and address;

22 “(II) an individual’s unexpired
23 U.S. military identification card;

24 “(III) an individual’s unexpired
25 Native American tribal identification

1 document issued by a tribal entity rec-
2 ognized by the Bureau of Indian Af-
3 fairs; or

4 “(IV) in the case of an individual
5 under 18 years of age, a parent or
6 legal guardian’s attestation under
7 penalty of law as to the identity and
8 age of the individual.

9 “(v) AUTHORITY TO PROHIBIT USE OF
10 CERTAIN DOCUMENTS.—If the Secretary of
11 Homeland Security finds, by regulation,
12 that any document described in clause (i),
13 (ii), or (iii) as establishing employment au-
14 thorization or identity does not reliably es-
15 tablish such authorization or identity or is
16 being used fraudulently to an unacceptable
17 degree, the Secretary may prohibit or place
18 conditions on its use for purposes of this
19 paragraph.

20 “(vi) SIGNATURE.—Such attestation
21 may be manifested by either a handwritten
22 or electronic signature.

23 “(B) INDIVIDUAL ATTESTATION OF EM-
24 PLOYMENT AUTHORIZATION.—During the veri-
25 fication period (as defined in subparagraph

1 (E)), the individual shall attest, under penalty
2 of perjury on the form designated or established
3 for purposes of subparagraph (A), that the indi-
4 vidual is a citizen or national of the United
5 States, an alien lawfully admitted for perma-
6 nent residence, or an alien who is authorized
7 under this Act or by the Secretary of Homeland
8 Security to be hired, recruited, or referred for
9 such employment. Such attestation may be
10 manifested by either a handwritten or electronic
11 signature. The individual shall also provide that
12 individual's social security account number or
13 United States passport number (if the indi-
14 vidual claims to have been issued such a num-
15 ber), and, if the individual does not attest to
16 United States nationality under this subpara-
17 graph, such identification or authorization num-
18 ber established by the Department of Homeland
19 Security for the alien as the Secretary may
20 specify.

21 “(C) RETENTION OF VERIFICATION FORM
22 AND VERIFICATION.—

23 “(i) IN GENERAL.—After completion
24 of such form in accordance with subpara-

1 graphs (A) and (B), the person or entity
2 shall—

3 “(I) retain a paper, microfiche,
4 microfilm, or electronic version of the
5 form and make it available for inspec-
6 tion by officers of the Department of
7 Homeland Security, the Department
8 of Justice, or the Department of
9 Labor during a period beginning on
10 the date of the recruiting or referral
11 of the individual, or, in the case of the
12 hiring of an individual, the date on
13 which the verification is completed,
14 and ending—

15 “(aa) in the case of the re-
16 cruiting or referral of an indi-
17 vidual, 3 years after the date of
18 the recruiting or referral; and

19 “(bb) in the case of the hir-
20 ing of an individual, the later of
21 3 years after the date the verifi-
22 cation is completed or one year
23 after the date the individual’s
24 employment is terminated; and

1 “(II) during the verification pe-
2 riod (as defined in subparagraph (E)),
3 make an inquiry, as provided in sub-
4 section (d), using the verification sys-
5 tem to seek verification of the identity
6 and employment eligibility of an indi-
7 vidual.

8 “(ii) CONFIRMATION.—

9 “(I) CONFIRMATION RE-
10 CEIVED.—If the person or other entity
11 receives an appropriate confirmation
12 of an individual’s identity and work
13 eligibility under the verification sys-
14 tem within the time period specified,
15 the person or entity shall record on
16 the form an appropriate code that is
17 provided under the system and that
18 indicates a final confirmation of such
19 identity and work eligibility of the in-
20 dividual.

21 “(II) TENTATIVE NONCONFIRMA-
22 TION RECEIVED.—If the person or
23 other entity receives a tentative non-
24 confirmation of an individual’s iden-
25 tity or work eligibility under the

1 verification system within the time pe-
2 riod specified, the person or entity
3 shall so inform the individual for
4 whom the verification is sought. If the
5 individual does not contest the non-
6 confirmation within the time period
7 specified, the nonconfirmation shall be
8 considered final. The person or entity
9 shall then record on the form an ap-
10 propriate code which has been pro-
11 vided under the system to indicate a
12 final nonconfirmation. If the indi-
13 vidual does contest the nonconfirma-
14 tion, the individual shall utilize the
15 process for secondary verification pro-
16 vided under subsection (d). The non-
17 confirmation will remain tentative
18 until a final confirmation or noncon-
19 firmation is provided by the verifica-
20 tion system within the time period
21 specified. In no case shall an employer
22 terminate employment of an individual
23 because of a failure of the individual
24 to have identity and work eligibility
25 confirmed under this section until a

1 nonconfirmation becomes final. Noth-
2 ing in this clause shall apply to a ter-
3 mination of employment for any rea-
4 son other than because of such a fail-
5 ure. In no case shall an employer re-
6 scind the offer of employment to an
7 individual because of a failure of the
8 individual to have identity and work
9 eligibility confirmed under this sub-
10 section until a nonconfirmation be-
11 comes final. Nothing in this subclause
12 shall apply to a rescission of the offer
13 of employment for any reason other
14 than because of such a failure.

15 “(III) FINAL CONFIRMATION OR
16 NONCONFIRMATION RECEIVED.—If a
17 final confirmation or nonconfirmation
18 is provided by the verification system
19 regarding an individual, the person or
20 entity shall record on the form an ap-
21 propriate code that is provided under
22 the system and that indicates a con-
23 firmation or nonconfirmation of iden-
24 tity and work eligibility of the indi-
25 vidual.

1 “(IV) EXTENSION OF TIME.—If
2 the person or other entity in good
3 faith attempts to make an inquiry
4 during the time period specified and
5 the verification system has registered
6 that not all inquiries were received
7 during such time, the person or entity
8 may make an inquiry in the first sub-
9 sequent working day in which the
10 verification system registers that it
11 has received all inquiries. If the
12 verification system cannot receive in-
13 quiries at all times during a day, the
14 person or entity merely has to assert
15 that the entity attempted to make the
16 inquiry on that day for the previous
17 sentence to apply to such an inquiry,
18 and does not have to provide any ad-
19 ditional proof concerning such inquiry.

20 “(V) CONSEQUENCES OF NON-
21 CONFIRMATION.—

22 “(aa) TERMINATION OR NO-
23 TIFICATION OF CONTINUED EM-
24 PLOYMENT.—If the person or
25 other entity has received a final

1 nonconfirmation regarding an in-
2 dividual, the person or entity
3 may terminate employment of the
4 individual (or decline to recruit
5 or refer the individual). If the
6 person or entity does not termi-
7 nate employment of the indi-
8 vidual or proceeds to recruit or
9 refer the individual, the person or
10 entity shall notify the Secretary
11 of Homeland Security of such
12 fact through the verification sys-
13 tem or in such other manner as
14 the Secretary may specify.

15 “(bb) FAILURE TO NO-
16 TIFY.—If the person or entity
17 fails to provide notice with re-
18 spect to an individual as required
19 under item (aa), the failure is
20 deemed to constitute a violation
21 of subsection (a)(1)(A) with re-
22 spect to that individual.

23 “(VI) CONTINUED EMPLOYMENT
24 AFTER FINAL NONCONFIRMATION.—If
25 the person or other entity continues to

1 employ (or to recruit or refer) an indi-
2 vidual after receiving final noncon-
3 firmation, a rebuttable presumption is
4 created that the person or entity has
5 violated subsection (a)(1)(A).

6 “(D) EFFECTIVE DATES OF NEW PROCE-
7 DURES.—

8 “(i) HIRING.—Except as provided in
9 clause (iii), the provisions of this para-
10 graph shall apply to a person or other enti-
11 ty hiring an individual for employment in
12 the United States as follows:

13 “(I) With respect to employers
14 having 10,000 or more employees in
15 the United States on the date of the
16 enactment of the Legal Workforce
17 Act, on the date that is 6 months
18 after the date of the enactment of
19 such Act.

20 “(II) With respect to employers
21 having 500 or more employees in the
22 United States, but less than 10,000
23 employees in the United States, on
24 the date of the enactment of the
25 Legal Workforce Act, on the date that

1 is 12 months after the date of the en-
2 actment of such Act.

3 “(III) With respect to employers
4 having 20 or more employees in the
5 United States, but less than 500 em-
6 ployees in the United States, on the
7 date of the enactment of the Legal
8 Workforce Act, on the date that is 18
9 months after the date of the enact-
10 ment of such Act.

11 “(IV) With respect to employers
12 having one or more employees in the
13 United States, but less than 20 em-
14 ployees in the United States, on the
15 date of the enactment of the Legal
16 Workforce Act, on the date that is 24
17 months after the date of the enact-
18 ment of such Act.

19 “(ii) RECRUITING AND REFERRING.—
20 Except as provided in clause (iii), the pro-
21 visions of this paragraph shall apply to a
22 person or other entity recruiting or refer-
23 ring an individual for employment in the
24 United States on the date that is 12

1 months after the date of the enactment of
2 the Legal Workforce Act.

3 “(iii) AGRICULTURAL LABOR OR SERV-
4 ICES.—With respect to an employee per-
5 forming agricultural labor or services, this
6 paragraph shall not apply with respect to
7 the verification of the employee until the
8 date that is 30 months after the date of
9 the enactment of the Legal Workforce Act.
10 For purposes of the preceding sentence,
11 the term ‘agricultural labor or services’ has
12 the meaning given such term by the Sec-
13 retary of Agriculture in regulations and in-
14 cludes agricultural labor as defined in sec-
15 tion 3121(g) of the Internal Revenue Code
16 of 1986, agriculture as defined in section
17 3(f) of the Fair Labor Standards Act of
18 1938 (29 U.S.C. 203(f)), the handling,
19 planting, drying, packing, packaging, proc-
20 essing, freezing, or grading prior to deliv-
21 ery for storage of any agricultural or horti-
22 cultural commodity in its unmanufactured
23 state, all activities required for the prepa-
24 ration, processing or manufacturing of a
25 product of agriculture (as such term is de-

1 fined in such section 3(f)) for further dis-
2 tribution, and activities similar to all the
3 foregoing as they relate to fish or shellfish
4 facilities. An employee described in this
5 clause shall not be counted for purposes of
6 clause (i).

7 “(iv) EXTENSIONS.—Upon request by
8 an employer having 50 or fewer employees,
9 the Secretary shall allow a one-time 6-
10 month extension of the effective date set
11 out in this subparagraph applicable to such
12 employer. Such request shall be made to
13 the Secretary and shall be made prior to
14 such effective date.

15 “(v) TRANSITION RULE.—Subject to
16 paragraph (4), the following shall apply to
17 a person or other entity hiring, recruiting,
18 or referring an individual for employment
19 in the United States until the effective
20 date or dates applicable under clauses (i)
21 through (iii):

22 “(I) This subsection, as in effect
23 before the enactment of the Legal
24 Workforce Act.

1 “(II) Subtitle A of title IV of the
2 Illegal Immigration Reform and Im-
3 migrant Responsibility Act of 1996 (8
4 U.S.C. 1324a note), as in effect be-
5 fore the effective date in section
6 6107(c) of the Legal Workforce Act.

7 “(III) Any other provision of
8 Federal law requiring the person or
9 entity to participate in the E-Verify
10 Program described in section 403(a)
11 of the Illegal Immigration Reform and
12 Immigrant Responsibility Act of 1996
13 (8 U.S.C. 1324a note), as in effect be-
14 fore the effective date in section
15 6107(c) of the Legal Workforce Act,
16 including Executive Order 13465 (8
17 U.S.C. 1324a note; relating to Gov-
18 ernment procurement).

19 “(E) VERIFICATION PERIOD DEFINED.—

20 “(i) IN GENERAL.—For purposes of
21 this paragraph:

22 “(I) In the case of recruitment or
23 referral, the term ‘verification period’
24 means the period ending on the date
25 recruiting or referring commences.

1 “(II) In the case of hiring, the
2 term ‘verification period’ means the
3 period beginning on the date on which
4 an offer of employment is extended
5 and ending on the date that is three
6 business days after the date of hire,
7 except as provided in clause (iii). The
8 offer of employment may be condi-
9 tioned in accordance with clause (ii).

10 “(ii) JOB OFFER MAY BE CONDI-
11 TIONAL.—A person or other entity may
12 offer a prospective employee an employ-
13 ment position that is conditioned on final
14 verification of the identity and employment
15 eligibility of the employee using the proce-
16 dures established under this paragraph.

17 “(iii) SPECIAL RULE.—Notwithstand-
18 ing clause (i)(II), in the case of an alien
19 who is authorized for employment and who
20 provides evidence from the Social Security
21 Administration that the alien has applied
22 for a social security account number, the
23 verification period ends three business days
24 after the alien receives the social security
25 account number.

1 “(2) REVERIFICATION FOR INDIVIDUALS WITH
2 LIMITED WORK AUTHORIZATION.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a person or entity shall
5 make an inquiry, as provided in subsection (d),
6 using the verification system to seek reverifica-
7 tion of the identity and employment eligibility
8 of all individuals with a limited period of work
9 authorization employed by the person or entity
10 during the three business days after the date on
11 which the employee’s work authorization expires
12 as follows:

13 “(i) With respect to employers having
14 10,000 or more employees in the United
15 States on the date of the enactment of the
16 Legal Workforce Act, beginning on the
17 date that is 6 months after the date of the
18 enactment of such Act.

19 “(ii) With respect to employers having
20 500 or more employees in the United
21 States, but less than 10,000 employees in
22 the United States, on the date of the en-
23 actment of the Legal Workforce Act, be-
24 ginning on the date that is 12 months

1 after the date of the enactment of such
2 Act.

3 “(iii) With respect to employers hav-
4 ing 20 or more employees in the United
5 States, but less than 500 employees in the
6 United States, on the date of the enact-
7 ment of the Legal Workforce Act, begin-
8 ning on the date that is 18 months after
9 the date of the enactment of such Act.

10 “(iv) With respect to employers hav-
11 ing one or more employees in the United
12 States, but less than 20 employees in the
13 United States, on the date of the enact-
14 ment of the Legal Workforce Act, begin-
15 ning on the date that is 24 months after
16 the date of the enactment of such Act.

17 “(B) AGRICULTURAL LABOR OR SERV-
18 ICES.—With respect to an employee performing
19 agricultural labor or services, or an employee
20 recruited or referred by a farm labor contractor
21 (as defined in section 3 of the Migrant and Sea-
22 sonal Agricultural Worker Protection Act (29
23 U.S.C. 1801)), subparagraph (A) shall not
24 apply with respect to the reverification of the
25 employee until the date that is 30 months after

1 the date of the enactment of the Legal Work-
2 force Act. For purposes of the preceding sen-
3 tence, the term ‘agricultural labor or services’
4 has the meaning given such term by the Sec-
5 retary of Agriculture in regulations and in-
6 cludes agricultural labor as defined in section
7 3121(g) of the Internal Revenue Code of 1986,
8 agriculture as defined in section 3(f) of the
9 Fair Labor Standards Act of 1938 (29 U.S.C.
10 203(f)), the handling, planting, drying, packing,
11 packaging, processing, freezing, or grading
12 prior to delivery for storage of any agricultural
13 or horticultural commodity in its unmanufac-
14 tured state, all activities required for the prepa-
15 ration, processing, or manufacturing of a prod-
16 uct of agriculture (as such term is defined in
17 such section 3(f)) for further distribution, and
18 activities similar to all the foregoing as they re-
19 late to fish or shellfish facilities. An employee
20 described in this subparagraph shall not be
21 counted for purposes of subparagraph (A).

22 “(C) REVERIFICATION.—Paragraph
23 (1)(C)(ii) shall apply to reverifications pursuant
24 to this paragraph on the same basis as it ap-

1 plies to verifications pursuant to paragraph (1),
2 except that employers shall—

3 “(i) use a form designated or estab-
4 lished by the Secretary by regulation for
5 purposes of this paragraph; and

6 “(ii) retain a paper, microfiche, micro-
7 film, or electronic version of the form and
8 make it available for inspection by officers
9 of the Department of Homeland Security,
10 the Department of Justice, or the Depart-
11 ment of Labor during the period beginning
12 on the date the reverification commences
13 and ending on the date that is the later of
14 3 years after the date of such reverification
15 or 1 year after the date the individual’s
16 employment is terminated.

17 “(3) PREVIOUSLY HIRED INDIVIDUALS.—

18 “(A) ON A MANDATORY BASIS FOR CER-
19 TAIN EMPLOYEES.—

20 “(i) IN GENERAL.—Not later than the
21 date that is 6 months after the date of the
22 enactment of the Legal Workforce Act, an
23 employer shall make an inquiry, as pro-
24 vided in subsection (d), using the
25 verification system to seek verification of

1 the identity and employment eligibility of
2 any individual described in clause (ii) em-
3 ployed by the employer whose employment
4 eligibility has not been verified under the
5 E-Verify Program described in section
6 403(a) of the Illegal Immigration Reform
7 and Immigrant Responsibility Act of 1996
8 (8 U.S.C. 1324a note).

9 “(ii) INDIVIDUALS DESCRIBED.—An
10 individual described in this clause is any of
11 the following:

12 “(I) An employee of any unit of
13 a Federal, State, or local government.

14 “(II) An employee who requires a
15 Federal security clearance working in
16 a Federal, State, or local government
17 building, a military base, a nuclear
18 energy site, a weapons site, or an air-
19 port or other facility that requires
20 workers to carry a Transportation
21 Worker Identification Credential
22 (TWIC).

23 “(III) An employee assigned to
24 perform work in the United States

1 under a Federal contract, except that
2 this subclause—

3 “(aa) is not applicable to in-
4 dividuals who have a clearance
5 under Homeland Security Presi-
6 dential Directive 12 (HSPD 12
7 clearance), are administrative or
8 overhead personnel, or are work-
9 ing solely on contracts that pro-
10 vide Commercial Off The Shelf
11 goods or services as set forth by
12 the Federal Acquisition Regu-
13 latory Council, unless they are
14 subject to verification under sub-
15 clause (II); and

16 “(bb) only applies to con-
17 tracts over the simple acquisition
18 threshold as defined in section
19 2.101 of title 48, Code of Federal
20 Regulations.

21 “(B) ON A MANDATORY BASIS FOR MUL-
22 TIPLE USERS OF SAME SOCIAL SECURITY AC-
23 COUNT NUMBER.—In the case of an employer
24 who is required by this subsection to use the
25 verification system described in subsection (d),

1 or has elected voluntarily to use such system,
2 the employer shall make inquiries to the system
3 in accordance with the following:

4 “(i) The Commissioner of Social Secu-
5 rity shall notify annually employees (at the
6 employee address listed on the Wage and
7 Tax Statement) who submit a social secu-
8 rity account number to which more than
9 one employer reports income and for which
10 there is a pattern of unusual multiple use.
11 The notification letter shall identify the
12 number of employers to which income is
13 being reported as well as sufficient infor-
14 mation notifying the employee of the proc-
15 ess to contact the Social Security Adminis-
16 tration Fraud Hotline if the employee be-
17 lieves the employee’s identity may have
18 been stolen. The notice shall not share in-
19 formation protected as private, in order to
20 avoid any recipient of the notice from
21 being in the position to further commit or
22 begin committing identity theft.

23 “(ii) If the person to whom the social
24 security account number was issued by the
25 Social Security Administration has been

1 identified and confirmed by the Commis-
2 sioner, and indicates that the social secu-
3 rity account number was used without
4 their knowledge, the Secretary and the
5 Commissioner shall lock the social security
6 account number for employment eligibility
7 verification purposes and shall notify the
8 employers of the individuals who wrong-
9 fully submitted the social security account
10 number that the employee may not be
11 work eligible.

12 “(iii) Each employer receiving such
13 notification of an incorrect social security
14 account number under clause (ii) shall use
15 the verification system described in sub-
16 section (d) to check the work eligibility sta-
17 tus of the applicable employee within 10
18 business days of receipt of the notification.

19 “(C) ON A VOLUNTARY BASIS.—Subject to
20 paragraph (2), and subparagraphs (A) through
21 (C) of this paragraph, beginning on the date
22 that is 30 days after the date of the enactment
23 of the Legal Workforce Act, an employer may
24 make an inquiry, as provided in subsection (d),
25 using the verification system to seek verification

1 of the identity and employment eligibility of any
2 individual employed by the employer. If an em-
3 ployer chooses voluntarily to seek verification of
4 any individual employed by the employer, the
5 employer shall seek verification of all individ-
6 uals employed at the same geographic location
7 or, at the option of the employer, all individuals
8 employed within the same job category, as the
9 employee with respect to whom the employer
10 seeks voluntarily to use the verification system.
11 An employer's decision about whether or not
12 voluntarily to seek verification of its current
13 workforce under this subparagraph may not be
14 considered by any government agency in any
15 proceeding, investigation, or review provided for
16 in this Act.

17 “(D) VERIFICATION.—Paragraph
18 (1)(C)(ii) shall apply to verifications pursuant
19 to this paragraph on the same basis as it ap-
20 plies to verifications pursuant to paragraph (1),
21 except that employers shall—

22 “(i) use a form designated or estab-
23 lished by the Secretary by regulation for
24 purposes of this paragraph; and

1 “(ii) retain a paper, microfiche, micro-
2 film, or electronic version of the form and
3 make it available for inspection by officers
4 of the Department of Homeland Security,
5 the Department of Justice, or the Depart-
6 ment of Labor during the period beginning
7 on the date the verification commences and
8 ending on the date that is the later of 3
9 years after the date of such verification or
10 1 year after the date the individual’s em-
11 ployment is terminated.

12 “(4) EARLY COMPLIANCE.—

13 “(A) FORMER E-VERIFY REQUIRED USERS,
14 INCLUDING FEDERAL CONTRACTORS.—Notwith-
15 standing the deadlines in paragraphs (1) and
16 (2), beginning on the date of the enactment of
17 the Legal Workforce Act, the Secretary is au-
18 thorized to commence requiring employers re-
19 quired to participate in the E-Verify Program
20 described in section 403(a) of the Illegal Immi-
21 gration Reform and Immigrant Responsibility
22 Act of 1996 (8 U.S.C. 1324a note), including
23 employers required to participate in such pro-
24 gram by reason of Federal acquisition laws
25 (and regulations promulgated under those laws,

1 including the Federal Acquisition Regulation),
2 to commence compliance with the requirements
3 of this subsection (and any additional require-
4 ments of such Federal acquisition laws and reg-
5 ulation) in lieu of any requirement to partici-
6 pate in the E-Verify Program.

7 “(B) FORMER E-VERIFY VOLUNTARY
8 USERS AND OTHERS DESIRING EARLY COMPLI-
9 ANCE.—Notwithstanding the deadlines in para-
10 graphs (1) and (2), beginning on the date of
11 the enactment of the Legal Workforce Act, the
12 Secretary shall provide for the voluntary com-
13 pliance with the requirements of this subsection
14 by employers voluntarily electing to participate
15 in the E-Verify Program described in section
16 403(a) of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996 (8 U.S.C.
18 1324a note) before such date, as well as by
19 other employers seeking voluntary early compli-
20 ance.

21 “(5) COPYING OF DOCUMENTATION PER-
22 MITTED.—Notwithstanding any other provision of
23 law, the person or entity may copy a document pre-
24 sented by an individual pursuant to this subsection
25 and may retain the copy, but only (except as other-

1 wise permitted under law) for the purpose of com-
2 plying with the requirements of this subsection.

3 “(6) LIMITATION ON USE OF FORMS.—A form
4 designated or established by the Secretary of Home-
5 land Security under this subsection and any infor-
6 mation contained in or appended to such form, may
7 not be used for purposes other than for enforcement
8 of this Act and any other provision of Federal crimi-
9 nal law.

10 “(7) GOOD FAITH COMPLIANCE.—

11 “(A) IN GENERAL.—Except as otherwise
12 provided in this subsection, a person or entity
13 is considered to have complied with a require-
14 ment of this subsection notwithstanding a tech-
15 nical or procedural failure to meet such require-
16 ment if there was a good faith attempt to com-
17 ply with the requirement.

18 “(B) EXCEPTION IF FAILURE TO CORRECT
19 AFTER NOTICE.—Subparagraph (A) shall not
20 apply if—

21 “(i) the failure is not de minimis;

22 “(ii) the Secretary of Homeland Secu-
23 rity has explained to the person or entity
24 the basis for the failure and why it is not
25 de minimis;

1 “(iii) the person or entity has been
2 provided a period of not less than 30 cal-
3 endar days (beginning after the date of the
4 explanation) within which to correct the
5 failure; and

6 “(iv) the person or entity has not cor-
7 rected the failure voluntarily within such
8 period.

9 “(C) EXCEPTION FOR PATTERN OR PRAC-
10 TICE VIOLATORS.—Subparagraph (A) shall not
11 apply to a person or entity that has or is engag-
12 ing in a pattern or practice of violations of sub-
13 section (a)(1)(A) or (a)(2).

14 “(8) SINGLE EXTENSION OF DEADLINES UPON
15 CERTIFICATION.—In a case in which the Secretary
16 of Homeland Security has certified to the Congress
17 that the employment eligibility verification system
18 required under subsection (d) will not be fully oper-
19 ational by the date that is 6 months after the date
20 of the enactment of the Legal Workforce Act, each
21 deadline established under this section for an em-
22 ployer to make an inquiry using such system shall
23 be extended by 6 months. No other extension of such
24 a deadline shall be made except as authorized under
25 paragraph (1)(D)(iv).”.

1 (b) DATE OF HIRE.—Section 274A(h) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1324a(h)) is
3 amended by adding at the end the following:

4 “(4) DEFINITION OF DATE OF HIRE.—As used
5 in this section, the term ‘date of hire’ means the
6 date of actual commencement of employment for
7 wages or other remuneration, unless otherwise speci-
8 fied.”.

9 **SEC. 1503. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
10 **TEM.**

11 Section 274A(d) of the Immigration and Nationality
12 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

13 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
14 TEM.—

15 “(1) IN GENERAL.—Patterned on the employ-
16 ment eligibility confirmation system established
17 under section 404 of the Illegal Immigration Reform
18 and Immigrant Responsibility Act of 1996 (8 U.S.C.
19 1324a note), the Secretary of Homeland Security
20 shall establish and administer a verification system
21 through which the Secretary (or a designee of the
22 Secretary, which may be a nongovernmental enti-
23 ty)—

24 “(A) responds to inquiries made by per-
25 sons at any time through a toll-free telephone

1 line and other toll-free electronic media con-
2 cerning an individual's identity and whether the
3 individual is authorized to be employed; and

4 “(B) maintains records of the inquiries
5 that were made, of verifications provided (or
6 not provided), and of the codes provided to in-
7 quirers as evidence of their compliance with
8 their obligations under this section.

9 “(2) INITIAL RESPONSE.—The verification sys-
10 tem shall provide confirmation or a tentative non-
11 confirmation of an individual's identity and employ-
12 ment eligibility within 3 working days of the initial
13 inquiry. If providing confirmation or tentative non-
14 confirmation, the verification system shall provide an
15 appropriate code indicating such confirmation or
16 such nonconfirmation.

17 “(3) SECONDARY CONFIRMATION PROCESS IN
18 CASE OF TENTATIVE NONCONFIRMATION.—In cases
19 of tentative nonconfirmation, the Secretary shall
20 specify, in consultation with the Commissioner of
21 Social Security, an available secondary verification
22 process to confirm the validity of information pro-
23 vided and to provide a final confirmation or noncon-
24 firmation not later than 10 working days after the
25 date on which the notice of the tentative noncon-

1 firmation is received by the employee. The Secretary,
2 in consultation with the Commissioner, may extend
3 this deadline once on a case-by-case basis for a pe-
4 riod of 10 working days, and if the time is extended,
5 shall document such extension within the verification
6 system. The Secretary, in consultation with the
7 Commissioner, shall notify the employee and em-
8 ployer of such extension. The Secretary, in consulta-
9 tion with the Commissioner, shall create a standard
10 process of such extension and notification and shall
11 make a description of such process available to the
12 public. When final confirmation or nonconfirmation
13 is provided, the verification system shall provide an
14 appropriate code indicating such confirmation or
15 nonconfirmation.

16 “(4) DESIGN AND OPERATION OF SYSTEM.—
17 The verification system shall be designed and oper-
18 ated—

19 “(A) to maximize its reliability and ease of
20 use by persons and other entities consistent
21 with insulating and protecting the privacy and
22 security of the underlying information;

23 “(B) to respond to all inquiries made by
24 such persons and entities on whether individ-
25 uals are authorized to be employed and to reg-

1 ister all times when such inquiries are not re-
2 ceived;

3 “(C) with appropriate administrative, tech-
4 nical, and physical safeguards to prevent unau-
5 thorized disclosure of personal information;

6 “(D) to have reasonable safeguards against
7 the system’s resulting in unlawful discrimina-
8 tory practices based on national origin or citi-
9 zenship status, including—

10 “(i) the selective or unauthorized use
11 of the system to verify eligibility; or

12 “(ii) the exclusion of certain individ-
13 uals from consideration for employment as
14 a result of a perceived likelihood that addi-
15 tional verification will be required, beyond
16 what is required for most job applicants;

17 “(E) to maximize the prevention of iden-
18 tity theft use in the system; and

19 “(F) to limit the subjects of verification to
20 the following individuals:

21 “(i) Individuals hired, referred, or re-
22 cruited, in accordance with paragraph (1)
23 or (4) of subsection (b).

1 “(ii) Employees and prospective em-
2 ployees, in accordance with paragraph (1),
3 (2), (3), or (4) of subsection (b).

4 “(iii) Individuals seeking to confirm
5 their own employment eligibility on a vol-
6 untary basis.

7 “(5) RESPONSIBILITIES OF COMMISSIONER OF
8 SOCIAL SECURITY.—As part of the verification sys-
9 tem, the Commissioner of Social Security, in con-
10 sultation with the Secretary of Homeland Security
11 (and any designee of the Secretary selected to estab-
12 lish and administer the verification system), shall es-
13 tablish a reliable, secure method, which, within the
14 time periods specified under paragraphs (2) and (3),
15 compares the name and social security account num-
16 ber provided in an inquiry against such information
17 maintained by the Commissioner in order to validate
18 (or not validate) the information provided regarding
19 an individual whose identity and employment eligi-
20 bility must be confirmed, the correspondence of the
21 name and number, and whether the individual has
22 presented a social security account number that is
23 not valid for employment. The Commissioner shall
24 not disclose or release social security information
25 (other than such confirmation or nonconfirmation)

1 under the verification system except as provided for
2 in this section or section 205(c)(2)(I) of the Social
3 Security Act.

4 “(6) RESPONSIBILITIES OF SECRETARY OF
5 HOMELAND SECURITY.—As part of the verification
6 system, the Secretary of Homeland Security (in con-
7 sultation with any designee of the Secretary selected
8 to establish and administer the verification system),
9 shall establish a reliable, secure method, which, with-
10 in the time periods specified under paragraphs (2)
11 and (3), compares the name and alien identification
12 or authorization number (or any other information
13 as determined relevant by the Secretary) which are
14 provided in an inquiry against such information
15 maintained or accessed by the Secretary in order to
16 validate (or not validate) the information provided,
17 the correspondence of the name and number, wheth-
18 er the alien is authorized to be employed in the
19 United States, or to the extent that the Secretary
20 determines to be feasible and appropriate, whether
21 the records available to the Secretary verify the
22 identity or status of a national of the United States.

23 “(7) UPDATING INFORMATION.—The Commis-
24 sioner of Social Security and the Secretary of Home-
25 land Security shall update their information in a

1 manner that promotes the maximum accuracy and
2 shall provide a process for the prompt correction of
3 erroneous information, including instances in which
4 it is brought to their attention in the secondary
5 verification process described in paragraph (3).

6 “(8) LIMITATION ON USE OF THE
7 VERIFICATION SYSTEM AND ANY RELATED SYS-
8 TEMS.—

9 “(A) NO NATIONAL IDENTIFICATION
10 CARD.—Nothing in this section shall be con-
11 strued to authorize, directly or indirectly, the
12 issuance or use of national identification cards
13 or the establishment of a national identification
14 card.

15 “(B) CRITICAL INFRASTRUCTURE.—The
16 Secretary may authorize or direct any person or
17 entity responsible for granting access to, pro-
18 tecting, securing, operating, administering, or
19 regulating part of the critical infrastructure (as
20 defined in section 1016(e) of the Critical Infra-
21 structure Protection Act of 2001 (42 U.S.C.
22 5195c(e))) to use the verification system to the
23 extent the Secretary determines that such use
24 will assist in the protection of the critical infra-
25 structure.

1 “(9) REMEDIES.—If an individual alleges that
2 the individual would not have been dismissed from
3 a job but for an error of the verification mechanism,
4 the individual may seek compensation only through
5 the mechanism of the Federal Tort Claims Act, and
6 injunctive relief to correct such error. No class ac-
7 tion may be brought under this paragraph.”.

8 **SEC. 1504. RECRUITMENT, REFERRAL, AND CONTINUATION**
9 **OF EMPLOYMENT.**

10 (a) ADDITIONAL CHANGES TO RULES FOR RECRUIT-
11 MENT, REFERRAL, AND CONTINUATION OF EMPLOY-
12 MENT.—Section 274A(a) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1324a(a)) is amended—

14 (1) in paragraph (1)(A), by striking “for a fee”;
15 (2) in paragraph (1), by amending subpara-
16 graph (B) to read as follows:

17 “(B) to hire, continue to employ, or to re-
18 cruit or refer for employment in the United
19 States an individual without complying with the
20 requirements of subsection (b).”; and

21 (3) in paragraph (2), by striking “after hiring
22 an alien for employment in accordance with para-
23 graph (1),” and inserting “after complying with
24 paragraph (1),”.

1 (b) DEFINITION.—Section 274A(h) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
3 by section 1602(b) of this Act, is further amended by add-
4 ing at the end the following:

5 “(5) DEFINITION OF RECRUIT OR REFER.—As
6 used in this section, the term ‘refer’ means the act
7 of sending or directing a person who is in the United
8 States or transmitting documentation or information
9 to another, directly or indirectly, with the intent of
10 obtaining employment in the United States for such
11 person. Only persons or entities referring for remu-
12 neration (whether on a retainer or contingency
13 basis) are included in the definition, except that
14 union hiring halls that refer union members or non-
15 union individuals who pay union membership dues
16 are included in the definition whether or not they re-
17 ceive remuneration, as are labor service entities or
18 labor service agencies, whether public, private, for-
19 profit, or nonprofit, that refer, dispatch, or other-
20 wise facilitate the hiring of laborers for any period
21 of time by a third party. As used in this section, the
22 term ‘recruit’ means the act of soliciting a person
23 who is in the United States, directly or indirectly,
24 and referring the person to another with the intent
25 of obtaining employment for that person. Only per-

1 sons or entities referring for remuneration (whether
2 on a retainer or contingency basis) are included in
3 the definition, except that union hiring halls that
4 refer union members or nonunion individuals who
5 pay union membership dues are included in this defi-
6 nition whether or not they receive remuneration, as
7 are labor service entities or labor service agencies,
8 whether public, private, for-profit, or nonprofit that
9 recruit, dispatch, or otherwise facilitate the hiring of
10 laborers for any period of time by a third party.”.

11 (c) **EFFECTIVE DATE.**—The amendments made by
12 this section shall take effect on the date that is 1 year
13 after the date of the enactment of this Act, except that
14 the amendments made by subsection (a) shall take effect
15 6 months after the date of the enactment of this Act inso-
16 far as such amendments relate to continuation of employ-
17 ment.

18 **SEC. 1505. GOOD FAITH DEFENSE.**

19 Section 274A(a)(3) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
21 follows:

22 “(3) **GOOD FAITH DEFENSE.**—

23 “(A) **DEFENSE.**—An employer (or person
24 or entity that hires, employs, recruits, or refers
25 (as defined in subsection (h)(5)), or is otherwise

1 obligated to comply with this section) who es-
2 tablishes that it has complied in good faith with
3 the requirements of subsection (b)—

4 “(i) shall not be liable to a job appli-
5 cant, an employee, the Federal Govern-
6 ment, or a State or local government,
7 under Federal, State, or local criminal or
8 civil law for any employment-related action
9 taken with respect to a job applicant or
10 employee in good-faith reliance on informa-
11 tion provided through the system estab-
12 lished under subsection (d); and

13 “(ii) has established compliance with
14 its obligations under subparagraphs (A)
15 and (B) of paragraph (1) and subsection
16 (b) absent a showing by the Secretary of
17 Homeland Security, by clear and con-
18 vincing evidence, that the employer had
19 knowledge that an employee is an unau-
20 thorized alien.

21 “(B) MITIGATION ELEMENT.—For pur-
22 poses of subparagraph (A)(i), if an employer
23 proves by a preponderance of the evidence that
24 the employer uses a reasonable, secure, and es-
25 tablished technology to authenticate the identity

1 of the new employee, that fact shall be taken
2 into account for purposes of determining good
3 faith use of the system established under sub-
4 section (d).

5 “(C) FAILURE TO SEEK AND OBTAIN
6 VERIFICATION.—Subject to the effective dates
7 and other deadlines applicable under subsection
8 (b), in the case of a person or entity in the
9 United States that hires, or continues to em-
10 ploy, an individual, or recruits or refers an indi-
11 vidual for employment, the following require-
12 ments apply:

13 “(i) FAILURE TO SEEK
14 VERIFICATION.—

15 “(I) IN GENERAL.—If the person
16 or entity has not made an inquiry,
17 under the mechanism established
18 under subsection (d) and in accord-
19 ance with the timeframes established
20 under subsection (b), seeking
21 verification of the identity and work
22 eligibility of the individual, the de-
23 fense under subparagraph (A) shall
24 not be considered to apply with re-

1 spect to any employment, except as
2 provided in subclause (II).

3 “(II) SPECIAL RULE FOR FAIL-
4 URE OF VERIFICATION MECHANISM.—
5 If such a person or entity in good
6 faith attempts to make an inquiry in
7 order to qualify for the defense under
8 subparagraph (A) and the verification
9 mechanism has registered that not all
10 inquiries were responded to during the
11 relevant time, the person or entity can
12 make an inquiry until the end of the
13 first subsequent working day in which
14 the verification mechanism registers
15 no nonresponses and qualify for such
16 defense.

17 “(ii) FAILURE TO OBTAIN
18 VERIFICATION.—If the person or entity
19 has made the inquiry described in clause
20 (i)(I) but has not received an appropriate
21 verification of such identity and work eligi-
22 bility under such mechanism within the
23 time period specified under subsection
24 (d)(2) after the time the verification in-
25 quiry was received, the defense under sub-

1 paragraph (A) shall not be considered to
2 apply with respect to any employment after
3 the end of such time period.”.

4 **SEC. 1506. PREEMPTION AND STATES' RIGHTS.**

5 Section 274A(h)(2) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
7 follows:

8 “(2) PREEMPTION.—

9 “(A) SINGLE, NATIONAL POLICY.—The
10 provisions of this section preempt any State or
11 local law, ordinance, policy, or rule, including
12 any criminal or civil fine or penalty structure,
13 insofar as they may now or hereafter relate to
14 the hiring, continued employment, or status
15 verification for employment eligibility purposes,
16 of unauthorized aliens.

17 “(B) STATE ENFORCEMENT OF FEDERAL
18 LAW.—

19 “(i) BUSINESS LICENSING.—A State,
20 locality, municipality, or political subdivi-
21 sion may exercise its authority over busi-
22 ness licensing and similar laws as a pen-
23 alty for failure to use the verification sys-
24 tem described in subsection (d) to verify

1 employment eligibility when and as re-
2 quired under subsection (b).

3 “(ii) GENERAL RULES.—A State, at
4 its own cost, may enforce the provisions of
5 this section, but only insofar as such State
6 follows the Federal regulations imple-
7 menting this section, applies the Federal
8 penalty structure set out in this section,
9 and complies with all Federal rules and
10 guidance concerning implementation of this
11 section. Such State may collect any fines
12 assessed under this section. An employer
13 may not be subject to enforcement, includ-
14 ing audit and investigation, by both a Fed-
15 eral agency and a State for the same viola-
16 tion under this section. Whichever entity,
17 the Federal agency or the State, is first to
18 initiate the enforcement action, has the
19 right of first refusal to proceed with the
20 enforcement action. The Secretary must
21 provide copies of all guidance, training,
22 and field instructions provided to Federal
23 officials implementing the provisions of
24 this section to each State.”.

1 **SEC. 1507. REPEAL.**

2 (a) IN GENERAL.—Subtitle A of title IV of the Illegal
3 Immigration Reform and Immigrant Responsibility Act of
4 1996 (8 U.S.C. 1324a note) is repealed.

5 (b) REFERENCES.—Any reference in any Federal
6 law, Executive order, rule, regulation, or delegation of au-
7 thority, or any document of, or pertaining to, the Depart-
8 ment of Homeland Security, Department of Justice, or the
9 Social Security Administration, to the employment eligi-
10 bility confirmation system established under section 404
11 of the Illegal Immigration Reform and Immigrant Respon-
12 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
13 refer to the employment eligibility confirmation system es-
14 tablished under section 274A(d) of the Immigration and
15 Nationality Act, as amended by section 1603 of this Act.

16 (c) EFFECTIVE DATE.—This section shall take effect
17 on the date that is 30 months after the date of the enact-
18 ment of this Act.

19 (d) CLERICAL AMENDMENT.—The table of sections,
20 in section 1(d) of the Illegal Immigration Reform and Im-
21 migrant Responsibility Act of 1996, is amended by strik-
22 ing the items relating to subtitle A of title IV.

23 **SEC. 1508. PENALTIES.**

24 Section 274A of the Immigration and Nationality Act
25 (8 U.S.C. 1324a) is amended—

26 (1) in subsection (e)(1)—

1 (A) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”; and

4 (B) in subparagraph (D), by striking
5 “Service” and inserting “Department of Home-
6 land Security”;

7 (2) in subsection (e)(4)—

8 (A) in subparagraph (A), in the matter be-
9 fore clause (i), by inserting “, subject to para-
10 graph (10),” after “in an amount”;

11 (B) in subparagraph (A)(i), by striking
12 “not less than \$250 and not more than
13 \$2,000” and inserting “not less than \$2,500
14 and not more than \$5,000”;

15 (C) in subparagraph (A)(ii), by striking
16 “not less than \$2,000 and not more than
17 \$5,000” and inserting “not less than \$5,000
18 and not more than \$10,000”;

19 (D) in subparagraph (A)(iii), by striking
20 “not less than \$3,000 and not more than
21 \$10,000” and inserting “not less than \$10,000
22 and not more than \$25,000”; and

23 (E) by moving the margin of the continu-
24 ation text following subparagraph (B) two ems

1 to the left and by amending subparagraph (B)
2 to read as follows:

3 “(B) may require the person or entity to
4 take such other remedial action as is appro-
5 priate.”;

6 (3) in subsection (e)(5)—

7 (A) in the paragraph heading, strike “PA-
8 PERWORK”;

9 (B) by inserting “, subject to paragraphs
10 (10) through (12),” after “in an amount”;

11 (C) by striking “\$100” and inserting
12 “\$1,000”;

13 (D) by striking “\$1,000” and inserting
14 “\$25,000”; and

15 (E) by adding at the end the following:
16 “Failure by a person or entity to utilize the em-
17 ployment eligibility verification system as re-
18 quired by law, or providing information to the
19 system that the person or entity knows or rea-
20 sonably believes to be false, shall be treated as
21 a violation of subsection (a)(1)(A).”;

22 (4) by adding at the end of subsection (e) the
23 following:

24 “(10) EXEMPTION FROM PENALTY FOR GOOD
25 FAITH VIOLATION.—In the case of imposition of a

1 civil penalty under paragraph (4)(A) with respect to
2 a violation of subsection (a)(1)(A) or (a)(2) for hir-
3 ing or continuation of employment or recruitment or
4 referral by person or entity and in the case of impo-
5 sition of a civil penalty under paragraph (5) for a
6 violation of subsection (a)(1)(B) for hiring or re-
7 cruitment or referral by a person or entity, the pen-
8 alty otherwise imposed may be waived or reduced if
9 the violator establishes that the violator acted in
10 good faith.

11 “(11) MITIGATION ELEMENT.—For purposes of
12 paragraph (4), the size of the business shall be
13 taken into account when assessing the level of civil
14 money penalty.

15 “(12) AUTHORITY TO DEBAR EMPLOYERS FOR
16 CERTAIN VIOLATIONS.—

17 “(A) IN GENERAL.—If a person or entity
18 is determined by the Secretary of Homeland Se-
19 curity to be a repeat violator of paragraph
20 (1)(A) or (2) of subsection (a), or is convicted
21 of a crime under this section, such person or
22 entity may be considered for debarment from
23 the receipt of Federal contracts, grants, or co-
24 operative agreements in accordance with the de-
25 barment standards and pursuant to the debar-

1 ment procedures set forth in the Federal Acqui-
2 sition Regulation.

3 “(B) DOES NOT HAVE CONTRACT, GRANT,
4 AGREEMENT.—If the Secretary of Homeland
5 Security or the Attorney General wishes to have
6 a person or entity considered for debarment in
7 accordance with this paragraph, and such a
8 person or entity does not hold a Federal con-
9 tract, grant, or cooperative agreement, the Sec-
10 retary or Attorney General shall refer the mat-
11 ter to the Administrator of General Services to
12 determine whether to list the person or entity
13 on the List of Parties Excluded from Federal
14 Procurement, and if so, for what duration and
15 under what scope.

16 “(C) HAS CONTRACT, GRANT, AGREE-
17 MENT.—If the Secretary of Homeland Security
18 or the Attorney General wishes to have a per-
19 son or entity considered for debarment in ac-
20 cordance with this paragraph, and such person
21 or entity holds a Federal contract, grant, or co-
22 operative agreement, the Secretary or Attorney
23 General shall advise all agencies or departments
24 holding a contract, grant, or cooperative agree-
25 ment with the person or entity of the Govern-

1 ment’s interest in having the person or entity
2 considered for debarment, and after soliciting
3 and considering the views of all such agencies
4 and departments, the Secretary or Attorney
5 General may refer the matter to any appro-
6 priate lead agency to determine whether to list
7 the person or entity on the List of Parties Ex-
8 cluded from Federal Procurement, and if so, for
9 what duration and under what scope.

10 “(D) REVIEW.—Any decision to debar a
11 person or entity in accordance with this para-
12 graph shall be reviewable pursuant to part 9.4
13 of the Federal Acquisition Regulation.

14 “(13) OFFICE FOR STATE AND LOCAL GOVERN-
15 MENT COMPLAINTS.—The Secretary of Homeland
16 Security shall establish an office—

17 “(A) to which State and local government
18 agencies may submit information indicating po-
19 tential violations of subsection (a), (b), or
20 (g)(1) that were generated in the normal course
21 of law enforcement or the normal course of
22 other official activities in the State or locality;

23 “(B) that is required to indicate to the
24 complaining State or local agency within five
25 business days of the filing of such a complaint

1 by identifying whether the Secretary will fur-
2 ther investigate the information provided;

3 “(C) that is required to investigate those
4 complaints filed by State or local government
5 agencies that, on their face, have a substantial
6 probability of validity;

7 “(D) that is required to notify the com-
8 plaining State or local agency of the results of
9 any such investigation conducted; and

10 “(E) that is required to report to the Con-
11 gress annually the number of complaints re-
12 ceived under this paragraph, the States and lo-
13 calities that filed such complaints, and the reso-
14 lution of the complaints investigated by the Sec-
15 retary.”; and

16 (5) by amending paragraph (1) of subsection (f)
17 to read as follows:

18 “(1) CRIMINAL PENALTY.—Any person or enti-
19 ty which engages in a pattern or practice of viola-
20 tions of subsection (a) (1) or (2) shall be fined not
21 more than \$5,000 for each unauthorized alien with
22 respect to which such a violation occurs, imprisoned
23 for not more than 18 months, or both, notwith-
24 standing the provisions of any other Federal law re-
25 lating to fine levels.”.

1 **SEC. 1509. FRAUD AND MISUSE OF DOCUMENTS.**

2 Section 1546(b) of title 18, United States Code, is
3 amended—

4 (1) in paragraph (1), by striking “identification
5 document,” and inserting “identification document
6 or document meant to establish work authorization
7 (including the documents described in section
8 274A(b) of the Immigration and Nationality Act),”;
9 and

10 (2) in paragraph (2), by striking “identification
11 document” and inserting “identification document or
12 document meant to establish work authorization (in-
13 cluding the documents described in section 274A(b)
14 of the Immigration and Nationality Act),”.

15 **SEC. 1510. PROTECTION OF SOCIAL SECURITY ADMINIS-**
16 **TRATION PROGRAMS.**

17 (a) **FUNDING UNDER AGREEMENT.**—Effective for
18 fiscal years beginning on or after October 1, 2025, the
19 Commissioner of Social Security and the Secretary of
20 Homeland Security shall enter into and maintain an
21 agreement which shall—

22 (1) provide funds to the Commissioner for the
23 full costs of the responsibilities of the Commissioner
24 under section 274A(d) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1324a(d)), as amended by

1 section 1503 of this Act, including (but not limited
2 to)—

3 (A) acquiring, installing, and maintaining
4 technological equipment and systems necessary
5 for the fulfillment of the responsibilities of the
6 Commissioner under such section 274A(d), but
7 only that portion of such costs that are attrib-
8 utable exclusively to such responsibilities; and

9 (B) responding to individuals who contest
10 a tentative nonconfirmation provided by the em-
11 ployment eligibility verification system estab-
12 lished under such section;

13 (2) provide such funds annually in advance of
14 the applicable quarter based on estimating method-
15 ology agreed to by the Commissioner and the Sec-
16 retary (except in such instances where the delayed
17 enactment of an annual appropriation may preclude
18 such quarterly payments); and

19 (3) require an annual accounting and reconcili-
20 ation of the actual costs incurred and the funds pro-
21 vided under the agreement, which shall be reviewed
22 by the Inspectors General of the Social Security Ad-
23 ministration and the Department of Homeland Secu-
24 rity.

1 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
2 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
3 which the agreement required under subsection (a) for any
4 fiscal year beginning on or after October 1, 2025, has not
5 been reached as of October 1 of such fiscal year, the latest
6 agreement between the Commissioner and the Secretary
7 of Homeland Security providing for funding to cover the
8 costs of the responsibilities of the Commissioner under
9 section 274A(d) of the Immigration and Nationality Act
10 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
11 terim basis for such fiscal year until such time as an
12 agreement required under subsection (a) is subsequently
13 reached, except that the terms of such interim agreement
14 shall be modified by the Director of the Office of Manage-
15 ment and Budget to adjust for inflation and any increase
16 or decrease in the volume of requests under the employ-
17 ment eligibility verification system. In any case in which
18 an interim agreement applies for any fiscal year under this
19 subsection, the Commissioner and the Secretary shall, not
20 later than October 1 of such fiscal year, notify the Com-
21 mittee on Ways and Means, the Committee on the Judici-
22 ary, and the Committee on Appropriations of the House
23 of Representatives and the Committee on Finance, the
24 Committee on the Judiciary, and the Committee on Ap-
25 propriations of the Senate of the failure to reach the

1 agreement required under subsection (a) for such fiscal
2 year. Until such time as the agreement required under
3 subsection (a) has been reached for such fiscal year, the
4 Commissioner and the Secretary shall, not later than the
5 end of each 90-day period after October 1 of such fiscal
6 year, notify such Committees of the status of negotiations
7 between the Commissioner and the Secretary in order to
8 reach such an agreement.

9 **SEC. 1511. FRAUD PREVENTION.**

10 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
11 **NUMBERS.**—The Secretary of Homeland Security, in con-
12 sultation with the Commissioner of Social Security, shall
13 establish a program in which social security account num-
14 bers that have been identified to be subject to unusual
15 multiple use in the employment eligibility verification sys-
16 tem established under section 274A(d) of the Immigration
17 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
18 section 1503 of this Act, or that are otherwise suspected
19 or determined to have been compromised by identity fraud
20 or other misuse, shall be blocked from use for such system
21 purposes unless the individual using such number is able
22 to establish, through secure and fair additional security
23 procedures, that the individual is the legitimate holder of
24 the number.

1 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
2 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
3 Homeland Security, in consultation with the Commis-
4 sioner of Social Security, shall establish a program which
5 shall provide a reliable, secure method by which victims
6 of identity fraud and other individuals may suspend or
7 limit the use of their social security account number or
8 other identifying information for purposes of the employ-
9 ment eligibility verification system established under sec-
10 tion 274A(d) of the Immigration and Nationality Act (8
11 U.S.C. 1324a(d)), as amended by section 1503 of this Act.
12 The Secretary may implement the program on a limited
13 pilot program basis before making it fully available to all
14 individuals.

15 (c) ALLOWING PARENTS TO PREVENT THEFT OF
16 THEIR CHILD’S IDENTITY.—The Secretary of Homeland
17 Security, in consultation with the Commissioner of Social
18 Security, shall establish a program which shall provide a
19 reliable, secure method by which parents or legal guard-
20 ians may suspend or limit the use of the social security
21 account number or other identifying information of a
22 minor under their care for the purposes of the employment
23 eligibility verification system established under 274A(d) of
24 the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
25 as amended by section 1503 of this Act. The Secretary

1 may implement the program on a limited pilot program
2 basis before making it fully available to all individuals.

3 **SEC. 1512. USE OF EMPLOYMENT ELIGIBILITY**
4 **VERIFICATION PHOTO TOOL.**

5 An employer who uses the photo matching tool used
6 as part of the E-Verify System shall match the photo tool
7 photograph to both the photograph on the identity or em-
8 ployment eligibility document provided by the employee
9 and to the face of the employee submitting the document
10 for employment verification purposes.

11 **SEC. 1513. IDENTITY AUTHENTICATION EMPLOYMENT ELI-**
12 **GIBILITY VERIFICATION PILOT PROGRAMS.**

13 Not later than 24 months after the date of the enact-
14 ment of this Act, the Secretary of Homeland Security,
15 after consultation with the Commissioner of Social Secu-
16 rity and the Director of the National Institute of Stand-
17 ards and Technology, shall establish by regulation not less
18 than 2 Identity Authentication Employment Eligibility
19 Verification pilot programs, each using a separate and dis-
20 tinct technology (the “Authentication Pilots”). The pur-
21 pose of the Authentication Pilots shall be to provide for
22 identity authentication and employment eligibility verifica-
23 tion with respect to enrolled new employees which shall
24 be available to any employer that elects to participate in
25 either of the Authentication Pilots. Any participating em-

1 ployer may cancel the employer's participation in the Au-
2 thentication Pilot after one year after electing to partici-
3 pate without prejudice to future participation. The Sec-
4 retary shall report to the Committee on the Judiciary of
5 the House of Representatives and the Committee on the
6 Judiciary of the Senate the Secretary's findings on the
7 Authentication Pilots, including the authentication tech-
8 nologies chosen, not later than 12 months after com-
9 mencement of the Authentication Pilots.

10 **SEC. 1514. INSPECTOR GENERAL AUDITS.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of the enactment of this Act, the Inspector General
13 of the Social Security Administration shall complete audits
14 of the following categories in order to uncover evidence
15 of individuals who are not authorized to work in the
16 United States:

17 (1) Workers who dispute wages reported on
18 their social security account number when they be-
19 lieve someone else has used such number and name
20 to report wages.

21 (2) Children's social security account numbers
22 used for work purposes.

23 (3) Employers whose workers present signifi-
24 cant numbers of mismatched social security account
25 numbers or names for wage reporting.

1 (b) SUBMISSION.—The Inspector General of the So-
2 cial Security Administration shall submit the audits com-
3 pleted under subsection (a) to the Committee on Ways and
4 Means of the House of Representatives and the Committee
5 on Finance of the Senate for review of the evidence of
6 individuals who are not authorized to work in the United
7 States. The Chairmen of those Committees shall then de-
8 termine information to be shared with the Secretary of
9 Homeland Security so that such Secretary can investigate
10 the unauthorized employment demonstrated by such evi-
11 dence.

12 **SEC. 1515. NATIONWIDE E-VERIFY AUDIT.**

13 Not later than 5 years after the date of enactment
14 of this Act, the Secretary of Commerce shall conduct a
15 nationwide audit of compliance with the requirements of
16 section 274A(b) of the Immigration and Nationality Act
17 by employers in all States, and shall report compliance lev-
18 els on a State-by-State basis. The Secretary of Homeland
19 Security may not adjust the status of an individual under
20 section 24103 until the Secretary of Commerce certifies
21 that all employers in all States are in compliance with the
22 requirements of section 274A(b) of the Immigration and
23 Nationality Act.

1 **TITLE VI—ASYLUM REFORM**

2 **SEC. 1601. HUMANITARIAN CAMPUSES.**

3 Subtitle C of title IV of the Homeland Security Act
4 of 2002 (6 U.S.C. 231 et seq.) is amended by adding at
5 the end the following:

6 **“SEC. 437. HUMANITARIAN CAMPUSES.**

7 “(a) IN GENERAL.—Not later than 12 months after
8 the effective date of this section, the Secretary shall estab-
9 lish not fewer than 5 humanitarian campuses located in
10 high traffic sectors of U.S. Border Patrol, as determined
11 by the Secretary, along the southern border land border
12 of the United States (referred to in this section as a ‘hu-
13 manitarian campus’).

14 “(b) PURPOSE.—

15 “(1) PROCESSING AND MANAGEMENT.—The hu-
16 manitarian campuses shall carry out processing and
17 management activities for asylum seekers appre-
18 hended at the border, including—

19 “(A) criminal history checks;

20 “(B) identity verification;

21 “(C) biometrics collection and analysis;

22 “(D) medical screenings;

23 “(E) asylum interviews and credible fear
24 determinations under section 235 of the Immi-
25 gration and Nationality Act (8 U.S.C. 1225)

1 and reasonable fear determinations under sec-
2 tion 241(b)(3)(B) of that Act (8 U.S.C.
3 1231(b)(3)(B));

4 “(F) facilitating coordination and commu-
5 nication between Federal entities and non-
6 governmental organizations that are directly in-
7 volved in providing assistance to aliens;

8 “(G) legal orientation programming and
9 communication between aliens and outside legal
10 counsel;

11 “(H) issuance of legal documents relating
12 to immigration court proceedings of aliens; and

13 “(I) any other activity the Secretary con-
14 siders appropriate.

15 “(2) CONSIDERATION OF ELIGIBILITY FOR AD-
16 DITIONAL FORMS OF RELIEF.—In conducting an
17 asylum interviews and credible fear determinations
18 under section 235 of the Immigration and Nation-
19 ality Act (8 U.S.C. 1225) and reasonable fear deter-
20 minations under section 241(b)(3)(B) of that Act (8
21 U.S.C. 1231(b)(3)(B)), the officer shall consider, in
22 addition to whether the alien has a credible fear of
23 persecution, whether the alien may be prima facie el-
24 igible for any other form of relief from removal, in-
25 cluding—

1 “(A) withholding of removal under section
2 241(b)(3) or any cause or claim under the
3 United Nations Convention Against Torture
4 and Other Forms of Cruel, Inhuman, or De-
5 grading Treatment or Punishment;

6 “(B) status under subparagraph (T) or
7 (U) of section 101(a)(15);

8 “(C) special immigrant juvenile status;

9 “(D) family reunification pursuant to an
10 approved I-130 petition; and

11 “(E) any other basis for relief from re-
12 moval under the immigration laws.

13 “(c) PERSONNEL AND LIVING CONDITIONS.—The
14 humanitarian campuses shall include—

15 “(1) personnel assigned from—

16 “(A) U.S. Customs and Border Protection;

17 “(B) U.S. Immigration and Customs En-
18 forcement;

19 “(C) the Federal Emergency Management
20 Agency;

21 “(D) U.S. Citizenship and Immigration
22 Services; and

23 “(E) the Office of Refugee Resettlement;

1 “(2) upon agreement with an applicable Federal
2 agency, personnel from such Federal agency who are
3 assigned to the humanitarian campus;

4 “(3) sufficient medical staff, including physi-
5 cians specializing in pediatric or family medicine,
6 nurse practitioners, and physician assistants;

7 “(4) licensed social workers;

8 “(5) mental health professionals;

9 “(6) child advocates appointed by the Secretary
10 of Health and Human Services under section
11 235(c)(6)(B) of the William Wilberforce Trafficking
12 Victims Protection Reauthorization Act of 2008 (8
13 U.S.C. 1232(c)(6)(B)); and

14 “(7) sufficient space to carry out the processing
15 and management activities described in subsection
16 (b).

17 “(d) CRIMINAL HISTORY CHECKS.—Each criminal
18 history check carried out under subsection (b)(1) shall be
19 conducted using a set of fingerprints or other biometric
20 identifier obtained from—

21 “(1) the Federal Bureau of Investigation;

22 “(2) the criminal history repositories of all
23 States that the individual listed as a current or
24 former residence; and

1 “(3) any other appropriate Federal or State
2 database resource or repository, as determined by
3 the Secretary.

4 “(e) EXCEPTIONS FOR ADDITIONAL PURPOSES.—
5 Subject to operational and spatial availability, in the event
6 of a major disaster or emergency declared under the Rob-
7 ert T. Stafford Disaster Relief and Emergency Assistance
8 Act (42 U.S.C. 5121 et seq.) or any homeland security
9 crisis requiring the establishment of a departmental Joint
10 Task Force under section 708(b), the Secretary may tem-
11 porarily utilize a humanitarian campus to carry out oper-
12 ations relating to such declaration or crisis.

13 “(f) DONATIONS.—The Department may accept do-
14 nations from private entities, nongovernmental organiza-
15 tions, and other groups independent of the Federal Gov-
16 ernment for the care of children and family units detained
17 at a humanitarian campus, including—

18 “(1) medical goods and services;

19 “(2) school supplies;

20 “(3) toys;

21 “(4) clothing; and

22 “(5) any other item intended to promote the
23 well-being of such children and family units.

24 “(g) ACCESS TO FACILITIES FOR PRIVATE ENTITIES
25 AND NONGOVERNMENTAL ORGANIZATIONS.—

1 “(1) IN GENERAL.—Private entities and non-
2 governmental organizations that are directly involved
3 in providing humanitarian or legal assistance to
4 families and individuals encountered by the Depart-
5 ment along the southwest border of the United
6 States, or organizations that provide assistance to
7 detained individuals, shall have access to humani-
8 tarian campuses for purposes of—

9 “(A) legal orientation programming;

10 “(B) providing case management services
11 or establishing case management services;

12 “(C) coordination with the Department
13 with respect to the care of families and individ-
14 uals held in humanitarian campuses, including
15 the care of families and individuals who are re-
16 leased or scheduled to be released;

17 “(D) communication between aliens and
18 outside legal counsel;

19 “(E) the provision of humanitarian assist-
20 ance; and

21 “(F) any other purpose the Secretary con-
22 siders appropriate.

23 “(2) ACCESS PLAN.—Not later than 60 days
24 after the date of the enactment of this section, the
25 Secretary shall publish in the Federal Register pro-

1 cedures relating to access to humanitarian campuses
2 under paragraph (1) that ensure—

3 “(A) the safety of personnel of, and aliens
4 detained in, humanitarian campuses; and

5 “(B) the orderly management and oper-
6 ation of humanitarian campuses.

7 “(h) LEGAL COUNSEL.—Aliens detained in a human-
8 itarian campus shall have access to legal counsel in accord-
9 ance with section 292 of the Immigration and Nationality
10 Act (8 U.S.C. 1362), including the opportunity to consult
11 with counsel before any legally determinative aspect of the
12 asylum process occurs.

13 “(i) PROCEDURES TO FACILITATE COMMUNICATION
14 WITH COUNSEL.—The Secretary shall develop written
15 procedures to permit aliens detained in a humanitarian
16 campus to visit with, and make confidential telephone calls
17 to, legal representatives and legal services providers and
18 to receive incoming calls from legal representatives and
19 legal services providers, in a private and confidential space
20 while in custody, for the purposes of retaining or con-
21 sulting with counsel or obtaining legal advice from legal
22 services providers.

23 “(j) LEGAL ORIENTATION.—An alien detained in a
24 humanitarian campus shall be provided the opportunity to
25 receive a complete legal orientation presentation adminis-

1 tered by a nongovernmental organization in cooperation
2 with the Executive Office for Immigration Review.

3 “(k) MANAGEMENT OF HUMANITARIAN CAM-
4 PUSES.—

5 “(1) OPERATION.—The Commissioner of U.S.
6 Customs and Border Protection, in consultation with
7 the interagency coordinating council established
8 under paragraph (2), shall operate the humanitarian
9 campuses.

10 “(2) INTERAGENCY COORDINATING COM-
11 MITTEE.—

12 “(A) ESTABLISHMENT.—There is estab-
13 lished an interagency coordinating committee
14 for the purpose of coordinating operations and
15 management of the humanitarian campuses.

16 “(B) MEMBERSHIP.—The interagency co-
17 ordinating committee shall be chaired by the
18 Commissioner of U.S. Customs and Border
19 Protection, or his or her designee, and shall in-
20 clude representatives designated by the heads of
21 the following agencies:

22 “(i) U.S. Immigration and Customs
23 Enforcement.

24 “(ii) The Federal Emergency Manage-
25 ment Agency.

1 “(iii) U.S. Citizenship and Immigra-
2 tion Services.

3 “(iv) The Office of Refugee Resettle-
4 ment.

5 “(v) Any other agency that supplies
6 personnel to the humanitarian campuses,
7 upon agreement between the Commissioner
8 of U.S. Customs and Border Protection
9 and the head of such other agency.

10 “(l) SCREENING TIMELINE.—Aliens shall undergo a
11 complete full screening under this section not later than
12 15 days after being processed at the campus, including
13 screening for gang, cartel, or criminal affiliation, legal ori-
14 entation, and initial credible fear interview.”.

15 **SEC. 1602. EXPEDITED ASYLUM DETERMINATIONS.**

16 (a) IN GENERAL.—Title II of the Immigration and
17 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
18 inserting after section 208 the following:

19 **“SEC. 208A. PROCEDURES FOR EXPEDITED ASYLUM DETER-**
20 **MINATIONS.**

21 “(a) IN GENERAL.—In the case of any alien who en-
22 ters the United States without lawful status the proce-
23 dures described in this section shall apply.

24 “(b) ARRIVAL REST PERIOD.—On arrival to a hu-
25 manitarian campus an alien shall be provided a mandatory

1 rest period for 72 hours after initial processing of the alien
2 occurs.

3 “(c) INITIAL SCREENING.—The Secretary of Home-
4 land Security shall ensure that an alien who is subject to
5 this section shall undergo an initial screening within 15
6 days after arrival at a humanitarian campus, which shall
7 consist of the following:

8 “(1) LEGAL COUNSEL.—The Secretary of
9 Homeland Security shall ensure each asylum seeker
10 is able to make contact with legal counsel within the
11 first week of arrival, prior to sitting for a credible
12 fear interview.

13 “(2) CREDIBLE FEAR DETERMINATION.—Any
14 alien seeking asylum who fails to pass the initial
15 credible fear interview shall be subject to expedited
16 removal under section 235.

17 “(d) SECONDARY SCREENING.—In the case of aliens
18 who successfully pass a credible fear interview, an asylum
19 officer may triage cases and make final decisions on asy-
20 lum cases not later than 45 days after an initial screening
21 is completed under subsection (c). A secondary screening
22 shall consist of the following:

23 “(1) IN GENERAL.—An asylum officer shall be
24 required to deny or approve the application for asy-

1 lum or refer complex or uncertain cases to an immi-
2 gration judge.

3 “(2) EXPEDITED APPEAL.—Any application for
4 asylum of an alien that is denied under paragraph
5 (1) shall be subject to expedited review, not later
6 than 7 days after such denial, by an asylum officer
7 other than the asylum officer who denied such appli-
8 cation.

9 “(3) LIMITED REVIEWABILITY.—Any decision
10 to deny or approve an application under this section
11 may not be subject to judicial review, except as pro-
12 vided in paragraphs (4) and (5).

13 “(4) ADDITIONAL REVIEW.—In any cir-
14 cumstance in which new evidence related to the ap-
15 plicant arises during consideration, an additional re-
16 view may be conducted by an asylum officer within
17 7 days after such new evidence arises.

18 “(5) VULNERABLE POPULATIONS.—

19 “(A) IN GENERAL.—An alien that is a
20 member of a vulnerable population may request
21 additional review.

22 “(B) DESCRIPTION.—A member of a vul-
23 nerable population includes any individual who
24 is—

1 “(i) a pregnant woman or a nursing
2 mother;

3 “(ii) a woman at disproportionate risk
4 of sexual or gender-based violence, exploi-
5 tation, or abuse;

6 “(iii) a person at risk of violence due
7 to their sexual orientation or gender iden-
8 tity;

9 “(iv) a person with a disability;

10 “(v) an elderly person;

11 “(vi) a person with urgent medical
12 needs;

13 “(vii) a stateless person; and

14 “(viii) a person holding a valid hu-
15 manitarian visa.

16 “(6) ADDITIONAL REVIEW DETERMINATIONS.—
17 An additional review conducted with respect to an
18 alien meeting the requirements of paragraph (3) or
19 (4) may uphold the previous determination or be re-
20 ferred to an immigration judge for a final decision.

21 “(7) EFFECT OF DENIAL.—Any alien who is de-
22 nied asylum status under this subsection shall be
23 subject to expedited removal under section 235.

24 “(e) IMMIGRATION JUDGE REFERRAL.—If referred
25 to an immigration judge, the following shall apply:

1 “(1) COURT REFERRAL AND CASE MANAGE-
2 MENT.—In the case that an asylum officer refers a
3 case to an immigration judge after a secondary or
4 additional review, each alien subject to such referral
5 shall receive a Notice to Appear and be permitted to
6 leave the humanitarian campus. Each such alien
7 shall be placed in a case management program.

8 “(2) MONITORING.—Each alien in case man-
9 agement shall be consistently monitored, and each
10 adult shall wear a wrist GPS tracker and check in
11 regularly with case officers.

12 “(3) ADULT CONFIRMATION OF LOCATION.—
13 Any alien placed in case management who is an
14 adult, parent, or legal guardian shall check in on a
15 weekly basis using automated telephone technology
16 that confirms the caller’s identity and location.

17 “(4) FAILURE TO COMPLY.—Any alien who
18 fails to comply with the case management require-
19 ments under this subsection shall be denied asylum
20 and subject to expedited removal under section 235.

21 “(f) HUMANITARIAN CAMPUS.—In this section, the
22 term ‘humanitarian campus’ means the campus described
23 in section 472 of the Homeland Security Act of 2002.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall take effect as soon as practicable, but

1 not later than 1 year after the date of enactment of this
2 Act.

3 **SEC. 1603. SCREENING AND PROCESSING IN WESTERN**
4 **HEMISPHERE.**

5 (a) IN GENERAL.—There shall be established not less
6 than 5 facilities in the Western hemisphere that shall offer
7 asylum pre-screening and family reunification services.

8 (b) LOCATIONS.—Of the facilities established under
9 subsection (a)—

10 (1) at least one of these shall be located in
11 South America, south of the Darien Province in
12 Panama;

13 (2) at least one shall be located in Mexico;

14 (3) at least one shall be located in Central
15 America; and

16 (4) at least one shall be located in a country
17 that participates in the Caribbean Basin Security
18 Initiative.

19 (c) SERVICES OFFERED.—The facilities established
20 under this section shall offer the following:

21 (1) PRE-SCREENING FOR ASYLUM ELIGI-
22 BILITY.—Asylum officers shall offer asylum pre-
23 screenings, which may be conducted virtually.

24 (2) FAMILY RE-UNIFICATION.—The Secretary
25 of Homeland Security shall develop an external fam-

1 ily reunification process for unmarried sons and
2 daughters under the age of 21 seeking to be re-
3 united with any parent with legal status in the
4 United States.

5 (3) EMPLOYMENT CONSULTATION AND APPLI-
6 CATIONS.—The Secretary of Homeland Security
7 shall ensure that consultations are provided to aliens
8 seeking to apply for legal work visas and assess
9 other legal pathways to citizenship.

10 (4) REGIONAL ECONOMIC OPPORTUNITIES.—
11 The Secretary of Homeland Security, in conjunction
12 with the Secretary of State, shall ensure individuals
13 are provided with regional economic opportunities in
14 areas in close proximity to the facilities established
15 under this section.

16 **SEC. 1604. RECORDING EXPEDITED REMOVAL AND CRED-**
17 **IBLE FEAR INTERVIEWS.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-
19 rity shall establish quality assurance procedures and take
20 steps to effectively ensure that questions by employees of
21 the Department of Homeland Security exercising expe-
22 dited removal authority under section 235(b) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
24 in a uniform manner, to the extent possible, and that both

1 these questions and the answers provided in response to
2 them are recorded in a uniform fashion.

3 (b) FACTORS RELATING TO SWORN STATEMENTS.—

4 Where practicable, any sworn or signed written statement
5 taken of an alien as part of the record of a proceeding
6 under section 235(b)(1)(A) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
8 panied by a recording of the interview which served as the
9 basis for that sworn statement.

10 (c) INTERPRETERS.—The Secretary shall ensure that
11 a fluent interpreter, not affiliated with the government of
12 the country from which the alien may claim asylum, is
13 used when the interviewing officer does not speak a lan-
14 guage that the alien is fluent in speaking.

15 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

16 There shall be an audio or audio visual recording of inter-
17 views of aliens subject to expedited removal. The recording
18 shall be included in the record of proceeding and shall be
19 considered as evidence in any further proceedings involv-
20 ing the alien.

21 **SEC. 1605. RENUNCIATION OF ASYLUM STATUS PURSUANT**
22 **TO RETURN TO HOME COUNTRY.**

23 (a) IN GENERAL.—Section 208(c) of the Immigration
24 and Nationality Act (8 U.S.C. 1158(c)) is amended by
25 adding at the end the following new paragraph:

1 “(4) RENUNCIATION OF STATUS PURSUANT TO
2 RETURN TO HOME COUNTRY.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraphs (B) and (C), any alien who is
5 granted asylum status under this Act, who,
6 within 5 years after being granted such status,
7 absent changed country conditions, subse-
8 quently returns to the country of such alien’s
9 nationality or, in the case of an alien having no
10 nationality, returns to any country in which
11 such alien last habitually resided, and who ap-
12 plied for such status because of persecution or
13 a well-founded fear of persecution in that coun-
14 try on account of race, religion, nationality,
15 membership in a particular social group, or po-
16 litical opinion, shall have his or her status ter-
17 minated.

18 “(B) WAIVER.—The Secretary has discre-
19 tion to waive subparagraph (A) if it is estab-
20 lished to the satisfaction of the Secretary that
21 the alien had a compelling reason for the re-
22 turn. The waiver may be sought prior to depar-
23 ture from the United States or upon return.

1 “(C) **LAWFUL PERMANENT RESIDENTS.**—
2 Subparagraph (A) shall not apply to lawful per-
3 manent residents.”.

4 (b) **CONFORMING AMENDMENT.**—Section 208(e)(3)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1158(e)(3)) is amended by inserting after “paragraph
7 (2)” the following: “or (4)”.

8 **SEC. 1606. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
9 **PLICATIONS.**

10 (a) **IN GENERAL.**—Section 208(d)(4) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
12 amended—

13 (1) in the matter preceding subparagraph (A),
14 by inserting “the Secretary of Homeland Security
15 or” before “the Attorney General”;

16 (2) in subparagraph (A), by striking “and of
17 the consequences, under paragraph (6), of knowingly
18 filing a frivolous application for asylum; and” and
19 inserting a semicolon;

20 (3) in subparagraph (B), by striking the period
21 and inserting “; and”; and

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

23 “(C) ensure that a written warning ap-
24 pears on the asylum application advising the
25 alien of the consequences of filing a frivolous

1 application and serving as notice to the alien of
2 the consequence of filing a frivolous applica-
3 tion.”.

4 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1158(d)(6)) is amended by striking “If the” and all that
7 follows and inserting:

8 “(A) If the Attorney General determines
9 that an alien has knowingly made a frivolous
10 application for asylum and the alien has re-
11 ceived the notice under paragraph (4)(C), the
12 alien shall be permanently ineligible for any
13 benefits under this chapter, effective as the date
14 of the final determination of such an applica-
15 tion;

16 “(B) An application is frivolous if the Sec-
17 retary of Homeland Security or the Attorney
18 General determines, consistent with subpara-
19 graph (C), that any of the material elements
20 are knowingly fabricated.

21 “(C) In determining that an application is
22 frivolous, the Secretary or the Attorney Gen-
23 eral, must be satisfied that the applicant, dur-
24 ing the course of the proceedings, has had suffi-

1 cient opportunity to clarify any discrepancies or
2 implausible aspects of the claim.

3 “(D) For purposes of this section, a find-
4 ing that an alien filed a frivolous asylum appli-
5 cation shall not preclude the alien from seeking
6 withholding of removal under section 241(b)(3)
7 or protection pursuant to the Convention
8 Against Torture.”.

9 **SEC. 1607. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

10 (a) ASYLUM CREDIBILITY DETERMINATIONS.—Sec-
11 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
12 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
13 after “all relevant factors” the following: “, including
14 statements made to, and investigative reports prepared by,
15 immigration authorities and other government officials”.

16 (b) RELIEF FOR REMOVAL CREDIBILITY DETER-
17 MINATIONS.—Section 240(c)(4)(C) of the Immigration
18 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
19 by inserting after “all relevant factors” the following: “,
20 including statements made to, and investigative reports
21 prepared by, immigration authorities and other govern-
22 ment officials”.

23 **SEC. 1608. PENALTIES FOR ASYLUM FRAUD.**

24 Section 1001 of title 18, United States Code, is
25 amended by inserting at the end of the paragraph—

1 “(d) Whoever, in any matter before the Secretary of
2 Homeland Security or the Attorney General pertaining to
3 asylum under section 208 of the Immigration and Nation-
4 ality Act or withholding of removal under section
5 241(b)(3) of such Act, knowingly and willfully—

6 “(1) makes any materially false, fictitious, or
7 fraudulent statement or representation; or

8 “(2) makes or uses any false writings or docu-
9 ment knowing the same to contain any materially
10 false, fictitious, or fraudulent statement or entry,
11 shall be fined under this title or imprisoned not more than
12 10 years, or both.”.

13 **SEC. 1609. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

14 Section 3291 of title 18, United States Code, is
15 amended—

16 (1) by striking “1544,” and inserting “1544,
17 and section 1546,”; and

18 (2) by striking “offense.” and inserting “of-
19 fense or within 10 years after the fraud is discov-
20 ered.”.

21 **SEC. 1610. STANDARD OPERATING PROCEDURES; FACILI-**
22 **TIES STANDARDS.**

23 (a) STANDARD OPERATING PROCEDURES.—Section
24 411(k)(1) of the Homeland Security Act of 2002 (6
25 U.S.C. 211(k)) is amended—

1 (1) in subparagraph (D), by striking “and” at
2 the end;

3 (2) in subparagraph (E)(iv), by striking the pe-
4 riod at the end and inserting “; and”; and

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

6 “(F) standard operating procedures re-
7 garding the detection, interdiction, inspection,
8 processing, or transferring of alien children that
9 officers and agents of U.S. Customs and Border
10 Protection shall employ in the execution of their
11 duties.”.

12 (b) FACILITIES STANDARDS.—

13 (1) INITIAL REVIEW AND UPDATE.—Not later
14 than 270 days after the date of the enactment of
15 this Act, the Secretary shall review and update the
16 regulations under part 115 of title 6, Code of Fed-
17 eral Regulations, that set standards to prevent, de-
18 tect, and respond to sexual abuse and assault in im-
19 migration detention facilities and other holding fa-
20 cilities under the jurisdiction of the Department of
21 Homeland Security.

22 (2) QUADRENNIAL REVIEW.—The Secretary
23 shall review and update the regulations referred to
24 in paragraph (1) not less frequently than once every
25 4 years.

1 **SEC. 1611. CRIMINAL BACKGROUND CHECKS FOR SPON-**
2 **SORS OF UNACCOMPANIED ALIEN CHILDREN.**

3 (a) IN GENERAL.—Section 235(c) of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232(c)) is amended—

6 (1) in paragraph (3)—

7 (A) in subparagraph (A), in the first sen-
8 tence, by striking “subparagraph (B)” and in-
9 serting “subparagraphs (B) and (C)”;

10 (B) by redesignating subparagraphs (B)
11 and (C) as subparagraphs (C) and (D), respec-
12 tively;

13 (C) by inserting after subparagraph (A)
14 the following:

15 “(B) CRIMINAL BACKGROUND CHECKS.—

16 “(i) IN GENERAL.—Before placing an
17 unaccompanied alien child with an indi-
18 vidual, the Secretary of Health and
19 Human Services shall—

20 “(I) conduct a criminal history
21 background check on the individual
22 and each adult member of the individ-
23 ual’s household; and

24 “(II) if appropriate, collect bio-
25 metric samples in connection with any
26 such background check.

1 “(ii) SCOPE.—

2 “(I) IN GENERAL.—Each biomet-
3 ric criminal history background check
4 required under clause (i) shall be con-
5 ducted through—

6 “(aa) the Federal Bureau of
7 Investigation;

8 “(bb) criminal history re-
9 positories of each State the indi-
10 vidual lists as a current or
11 former residence; and

12 “(cc) any other Federal or
13 State database or repository the
14 Secretary of Health and Human
15 Services considers appropriate.

16 “(II) USE OF RAPID DNA IN-
17 STRUMENTS.—DNA analysis of a
18 DNA sample collected under sub-
19 clause (I) may be carried out with
20 Rapid DNA instruments (as defined
21 in section 3(c) of the DNA Analysis
22 Backlog Elimination Act of 2000 (34
23 U.S.C. 40702(c)).

24 “(III) LIMITATION ON USE OF
25 BIOMETRIC SAMPLES.—The Secretary

1 of Health and Human Services may
2 not release a fingerprint or DNA sam-
3 ple collected, or disclose the results of
4 a fingerprint or DNA analysis con-
5 ducted under this subparagraph, or
6 any other information obtained pursu-
7 ant to this section, to the Department
8 of Homeland Security for any immi-
9 gration enforcement purpose.

10 “(IV) ACCESS TO INFORMATION
11 THROUGH THE DEPARTMENT OF
12 HOMELAND SECURITY.—Not later
13 than 14 days after receiving a request
14 from the Secretary of Health and
15 Human Services, the Secretary of
16 Homeland Security shall provide in-
17 formation necessary to conduct suit-
18 ability assessments from appropriate
19 Federal, State, and local law enforce-
20 ment and immigration databases.

21 “(iii) PROHIBITION ON PLACEMENT
22 WITH INDIVIDUALS CONVICTED OF CER-
23 TAIN OFFENSES.—The Secretary of Health
24 and Human Services may not place an un-
25 accompanied alien child in the custody or

1 household of an individual who has been
2 convicted of, or is currently being tried
3 for—

4 “(I) a sex offense (as defined in
5 section 111 of the Sex Offender Reg-
6 istration and Notification Act (34
7 U.S.C. 20911));

8 “(II) a crime involving severe
9 forms of trafficking in persons (as de-
10 fined in section 103 of the Trafficking
11 Victims Protection Act of 2000 (22
12 U.S.C. 7102));

13 “(III) a crime of domestic vio-
14 lence (as defined in section 40002(a)
15 of the Violence Against Women Act
16 (34 U.S.C. 12291(a)));

17 “(IV) a crime of child abuse and
18 neglect (as defined in section 3 of the
19 Child Abuse Prevention and Treat-
20 ment Act (Public Law 93–247; 42
21 U.S.C. 5101 note));

22 “(V) murder, manslaughter, or
23 an attempt to commit murder or man-
24 slaughter (within the meanings of
25 such terms in sections 1111, 1112,

1 and 1113 of title 18, United States
2 Code); or

3 “(VI) a crime involving receipt,
4 distribution, or possession of a visual
5 depiction of a minor engaging in sexu-
6 ally explicit conduct (within the mean-
7 ings of such terms in section 2252 of
8 title 18, United States Code).”; and

9 (D) by adding at the end the following:

10 “(E) WELL-BEING FOLLOW-UP CALLS.—

11 Not later than 30 days after the date on which
12 an unaccompanied alien child is released from
13 the custody of the Secretary of Health and
14 Human Services, and every 60 days thereafter
15 until the date on which a final decision has
16 been issued in the removal proceedings of the
17 child or such proceedings are terminated, the
18 Secretary shall conduct a follow-up telephone
19 call with the unaccompanied alien child and the
20 child’s custodian or the primary point of con-
21 tact for any other entity with which the child
22 was placed.

23 “(F) CHANGE OF ADDRESS.—The Sec-
24 retary of Health and Human Services shall—

1 “(i) require each custodian with whom
2 an unaccompanied alien child is placed
3 under this subsection to notify the Sec-
4 retary with respect to any change in the
5 unaccompanied alien child’s physical or
6 mailing address, including any situation in
7 which the unaccompanied alien child per-
8 manently departs the custodian’s residence,
9 not later than 7 days after the date on
10 which such change or departure occurs;
11 and

12 “(ii) develop and implement a system
13 that permits custodians to submit notifica-
14 tions electronically with respect to a
15 change of address.”.

16 (b) COLLECTION AND COMPILATION OF STATISTICAL
17 INFORMATION.—Section 462(b)(1)(K) of the Homeland
18 Security Act of 2002 (6 U.S.C. 279(b)(1)(K)) is amended
19 by striking “; and” and inserting “, including—

20 “(i) the average length of time from
21 apprehension to the child’s master cal-
22 endar hearing, organized by the fiscal year
23 in which the children were apprehended by
24 U.S. Customs and Border Protection;

1 “(ii) the number of children identified
2 under clause (i) who did and did not ap-
3 pear at master calendar hearings, includ-
4 ing the percentage of children in each cat-
5 egory who were represented by counsel;

6 “(iii) the average length of time from
7 apprehension to the child’s merits hearing,
8 organized by the fiscal year in which the
9 children were apprehended by U.S. Cus-
10 toms and Border Protection;

11 “(iv) the number of children identified
12 under clause (i) who did and did not ap-
13 pear at merits hearings, including the per-
14 centage of children in each category who
15 are represented by counsel; and

16 “(v) the total number of well-being
17 follow-up calls conducted under section
18 235 of the William Wilberforce Trafficking
19 Victims Protection Reauthorization Act of
20 2008 (8 U.S.C. 1232(c)(3)(E)) at each
21 time interval following placement with a
22 custodian or other entity, and the number
23 of children that the Secretary of Health
24 and Human Services is unable to contact
25 at each interval, organized by the fiscal

1 year in which the children were appre-
2 hended by U.S. Customs and Border Pro-
3 tection; and”.

4 (c) CLARIFICATION.—Unaccompanied alien children
5 shall be processed and reunited with their sponsors in the
6 United States in accordance with guidance outlined in the
7 stipulated settlement agreement filed in the United States
8 District Court for the Central District of California on
9 January 17, 1997 (CV 85–4544–RJK) (commonly known
10 as the “Flores settlement agreement”).

11 **SEC. 1612. FRAUD IN CONNECTION WITH THE TRANSFER OF**
12 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
13 **DREN.**

14 (a) IN GENERAL.—Chapter 47 of title 18, United
15 States Code, is amended by adding at the end the fol-
16 lowing:

17 **“§ 1041. Fraud in connection with the transfer of cus-**
18 **tody of unaccompanied alien children**

19 “(a) IN GENERAL.—It shall be unlawful for a person
20 to obtain custody of an unaccompanied alien child (as de-
21 fined in section 462(g) of the Homeland Security Act of
22 2002 (6 U.S.C. 279(g))—

23 “(1) by making any materially false, fictitious,
24 or fraudulent statement or representation; or

1 “(2) by making or using any false writing or
2 document with the knowledge that such writing or
3 document contains any materially false, fictitious, or
4 fraudulent statement or entry.

5 “(b) PENALTIES.—

6 “(1) IN GENERAL.—Any person who violates, or
7 attempts or conspires to violate, subsection (a) shall
8 be fined under this title and imprisoned for not less
9 than 1 year.

10 “(2) ENHANCED PENALTY FOR TRAF-
11 FICKING.—If the primary purpose of a violation, at-
12 tempted violation, or conspiracy to violate this sec-
13 tion was to subject the child to sexually explicit ac-
14 tivity or any other form of exploitation, the offender
15 shall be fined under this title and imprisoned for not
16 less than 15 years.”.

17 (b) CLERICAL AMENDMENT.—The chapter analysis
18 for chapter 47 of title 18, United States Code, is amended
19 by adding at the end the following:

 “1041. Fraud in connection with the transfer of custody of unaccompanied alien
 children.”.

20 **SEC. 1613. HIRING AUTHORITY.**

21 (a) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
22 MENT.—

1 (1) IN GENERAL.—The Director of U.S. Immi-
2 gration and Customs Enforcement shall hire, train,
3 and assign—

4 (A) not fewer than 300 Enforcement and
5 Removal Operations support personnel to ad-
6 dress case management responsibilities relating
7 to aliens apprehended along the southwest bor-
8 der, and the operation of humanitarian cam-
9 puses established under section 437(a) of the
10 Homeland Security Act of 2002;

11 (B) not fewer than 128 attorneys in the
12 Office of the Principal Legal Advisor;

13 (C) not fewer than 41 support staff within
14 the Office of the Principal Legal Advisor to as-
15 sist immigration judges within the Executive
16 Office for Immigration Review with removal,
17 asylum, and custody determination proceedings;
18 and

19 (D) not fewer than 500 asylum officers to
20 assist in expedited asylum determinations at
21 humanitarian campuses established under sec-
22 tion 1601.

23 (2) GAO REVIEW AND REPORT RELATING TO
24 STAFFING NEEDS.—

1 (A) REVIEW.—The Comptroller General of
2 the United States shall conduct a review of—

3 (i) U.S. Immigration and Customs
4 Enforcement activities and staffing needs
5 related to irregular migration influx events
6 along the southwest border during fiscal
7 years 2014, 2019, and 2021, including—

8 (I) the total number of aliens
9 placed in removal proceedings in con-
10 nection with such irregular migration
11 influx events;

12 (II) the number of hours dedi-
13 cated to responding to irregular mi-
14 gration influx events by Enforcement
15 and Removal Operations officers, En-
16 forcement and Removal Operations
17 support personnel, attorneys within
18 the Office of the Principal Legal Advi-
19 sor, and support staff within the Of-
20 fice of the Principal Legal Advisor;
21 and

22 (III) the impact that response to
23 such irregular migration influx events
24 had on the ability of U.S. Immigra-
25 tion and Customs Enforcement to

1 carry out other aspects of its mission,
2 including the regular transport of mi-
3 grants from U.S. Customs and Border
4 Protection facilities to U.S. Immigra-
5 tion and Customs Enforcement facili-
6 ties; and

7 (ii) staffing levels within the Office of
8 the Principal Legal Advisor, U.S. Immigra-
9 tion and Customs Enforcement, includ-
10 ing the impact such staffing levels have on
11 docketing of cases within the Executive Of-
12 fice for Immigration Review.

13 (B) REPORT.—Not later than 1 year after
14 the date of the enactment of this Act, the
15 Comptroller General shall submit to the appro-
16 priate committees of Congress a report that de-
17 scribes the results of the review conducted
18 under subparagraph (A).

19 (b) EXECUTIVE OFFICE FOR IMMIGRATION RE-
20 VIEW.—The Director of the Executive Office for Immigra-
21 tion Review shall hire, train, and assign not fewer than
22 150 new Immigration Judge teams, including staff attor-
23 neys and all applicable support staff for such Immigration
24 Judge teams.

1 (c) U.S. CITIZENSHIP AND IMMIGRATION SERV-
2 ICES.—The Director of U.S. Citizenship and Immigration
3 Services shall hire, train, and assign not fewer than 300
4 asylum officers.

5 **SEC. 1614. HUMANITARIAN STATUS.**

6 Section 101(a)(15)(U) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1101(a)(15)(U)) is amended—

8 (1) in subparagraph (U)(iii), by striking “or”
9 at the end;

10 (2) in subparagraph (V)(ii)(II), by striking the
11 period and inserting “; or”; and

12 (3) by adding at the end the following:

13 “(W) an alien who is prima facie eligible
14 for asylum based on overwhelming evidence
15 during an asylum prescreening at a facility in
16 the Western hemisphere, except that the num-
17 ber of aliens admitted under this status may
18 not exceed the number of refugees authorized to
19 enter during a fiscal year.”.

20 **SEC. 1615. TWO STRIKE POLICY.**

21 (a) IN GENERAL.—Section 208 of the Immigration
22 and Nationality Act is amended by adding at the end the
23 following:

24 “(f) ENTRY AT AN UNAUTHORIZED LOCATION.—

1 “(1) LOGGING UNLAWFUL ENTRY.—Any alien
2 who fails to enter the United States at a designated
3 port of entry shall be logged by an agent biometri-
4 cally and informed by such agent that applications
5 for asylum may only be made at a designated port
6 of entry.

7 “(2) SUBSEQUENT ENTRY.—Any alien who fails
8 to enter the United States at a designated port of
9 entry after being logged under paragraph (1) shall
10 be subject to expedited removal under section 235.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect 30 days after the date of en-
13 actment of this Act.

14 **SEC. 1616. LOAN FORGIVENESS FOR LEGAL SERVICE PRO-**
15 **VIDERS AT HUMANITARIAN CAMPUSES.**

16 Subtitle C of title IV of the Homeland Security Act
17 of 2002 (6 U.S.C. 231 et seq.), as amended by section
18 1601 of this Act, is amended by adding at the end the
19 following:

20 **“SEC. 438. LOAN FORGIVENESS FOR LEGAL SERVICE PRO-**
21 **VIDERS AT HUMANITARIAN CAMPUSES.**

22 “(a) PROGRAM AUTHORIZED.—

23 “(1) LOAN FORGIVENESS AUTHORIZED.—The
24 Secretary, in coordination with the Secretary of
25 Education, shall forgive, in accordance with this sec-

1 tion, the qualified loan amount described in sub-
2 section (b) of the eligible student loan obligation of
3 a borrower who—

4 “(A) has attended an accredited law school
5 at an institution of higher education (as defined
6 in section 102 of the Higher Education Act of
7 1965) and obtained a Juris Doctor degree;

8 “(B) has completed not less than four
9 years of full-time employment as an attorney
10 providing legal services at a humanitarian cam-
11 pus established under section 437(a); and

12 “(C) is not in default on a loan for which
13 the borrower seeks forgiveness.

14 “(2) METHOD OF LOAN FORGIVENESS.—To
15 provide loan forgiveness under paragraph (1), the
16 Secretary, in coordination with the Secretary of
17 Education, is authorized to carry out a program—

18 “(A) through the holder of the loan, to as-
19 sume the obligation to repay a qualified loan
20 amount for a loan made, insured, or guaranteed
21 under part B of the Higher Education Act of
22 1965 (other than an excepted PLUS loan or an
23 excepted consolidation loan (as such terms are
24 defined in section 493C(a) of such Act of
25 1965)); and

1 “(B) to cancel a qualified loan amount for
2 a loan made under part D or E of such Act of
3 1965 (other than an excepted PLUS loan or an
4 excepted consolidation loan (as such terms are
5 defined in section 493C(a) of such Act of
6 1965)).

7 “(3) REGULATIONS.—The Secretary is author-
8 ized to issue such regulations as may be necessary
9 to carry out this section.

10 “(b) QUALIFIED LOANS AMOUNT.—

11 “(1) AMOUNT OF FORGIVENESS.—The Sec-
12 retary shall forgive 75 percent of the eligible student
13 loan obligation of a borrower described in subsection
14 (a)(1) that is outstanding after the completion of the
15 fourth year of employment described in such para-
16 graph.

17 “(2) ELIGIBLE STUDENT LOAN OBLIGATION.—

18 The term ‘eligible student loan obligation’ has the
19 meaning given the term ‘student loan’ in section
20 428L of the Higher Education Act of 1965, except
21 that only the portion of such a student loan that is
22 attributable to the borrower’s study of law and at-
23 tainment of a Juris Doctor degree (and not to un-
24 dergraduate study or other courses of study) shall be
25 included when calculating the outstanding eligible

1 student loan obligation of a borrower for purposes of
2 paragraph (1).

3 “(c) CONSTRUCTION.—Nothing in this section shall
4 be construed to authorize any refunding of any repayment
5 of a loan.”.

6 **TITLE VII—RULE OF LAW, SECUR-**
7 **RITY, AND ECONOMIC DEVEL-**
8 **OPMENT IN CENTRAL AMER-**
9 **ICA**

10 **Subtitle A—Promoting the Rule of**
11 **Law, Security, and Economic**
12 **Development in Central Amer-**
13 **ica**

14 **SEC. 1701. UNITED STATES STRATEGY FOR ENGAGEMENT**
15 **IN CENTRAL AMERICA.**

16 (a) IN GENERAL.—The Secretary of State shall im-
17 plement a 4-year strategy, to be known as the “United
18 States Strategy for Engagement in Central America” (re-
19 ferred to in this subtitle as the “Strategy”)—

20 (1) to advance reforms in Central America; and
21 (2) to address the key factors contributing to
22 the flight of families, unaccompanied noncitizen chil-
23 dren, and other individuals from Central America to
24 the United States.

25 (b) ELEMENTS.—The Strategy shall include efforts—

- 1 (1) to strengthen democratic governance, ac-
2 countability, transparency, and the rule of law;
- 3 (2) to combat corruption and impunity;
- 4 (3) to improve access to justice;
- 5 (4) to bolster the effectiveness and independ-
6 ence of judicial systems and public prosecutors' of-
7 fices;
- 8 (5) to improve the effectiveness of civilian police
9 forces;
- 10 (6) to confront and counter the violence, extor-
11 tion, and other crimes perpetrated by armed crimi-
12 nal gangs, illicit trafficking organizations, and orga-
13 nized crime, while disrupting recruitment efforts by
14 such organizations;
- 15 (7) to disrupt money laundering and other illicit
16 financial operations of criminal networks, armed
17 gangs, illicit trafficking organizations, and human
18 smuggling networks;
- 19 (8) to promote greater respect for internation-
20 ally recognized human rights, labor rights, funda-
21 mental freedoms, and the media;
- 22 (9) to enhance accountability for government
23 officials, including police and security force per-
24 sonnel, who are credibly alleged to have committed
25 serious violations of human rights or other crimes;

1 (10) to enhance the capability of governments
2 in Central America to protect and provide for vul-
3 nerable and at-risk populations;

4 (11) to address the underlying causes of pov-
5 erty and inequality and the constraints to inclusive
6 economic growth in Central America; and

7 (12) to prevent and respond to endemic levels
8 of sexual, gender-based, and domestic violence.

9 (c) COORDINATION AND CONSULTATION.—In imple-
10 menting the Strategy, the Secretary of State shall—

11 (1) coordinate with the Secretary of the Treas-
12 ury, the Secretary of Defense, the Secretary, the At-
13 torney General, the Administrator of the United
14 States Agency for International Development, and
15 the Chief Executive Officer of the United States De-
16 velopment Finance Corporation; and

17 (2) consult with the Director of National Intel-
18 ligence, national and local civil society organizations
19 in Central America and the United States, and the
20 governments of Central America.

21 (d) SUPPORT FOR CENTRAL AMERICAN EFFORTS.—
22 To the degree feasible, the Strategy shall support or com-
23 plement efforts being carried out by the Governments of
24 El Salvador, of Guatemala, and of Honduras, in coordina-

1 tion with bilateral and multilateral donors and partners,
2 including the Inter-American Development Bank.

3 **SEC. 1702. SECURING SUPPORT OF INTERNATIONAL DO-**
4 **NORS AND PARTNERS.**

5 (a) PLAN.—The Secretary of State shall implement
6 a 4-year plan—

7 (1) to secure support from international donors
8 and regional partners to enhance the implementation
9 of the Strategy;

10 (2) to identify governments that are willing to
11 provide financial and technical assistance for the im-
12 plementation of the Strategy and the specific assist-
13 ance that will be provided; and

14 (3) to identify and describe the financial and
15 technical assistance to be provided by multilateral
16 institutions, including the Inter-American Develop-
17 ment Bank, the World Bank, the International Mon-
18 etary Fund, the Andean Development Corporation—
19 Development Bank of Latin America, and the Orga-
20 nization of American States.

21 (b) DIPLOMATIC ENGAGEMENT AND COORDINA-
22 TION.—The Secretary of State, in coordination with the
23 Secretary of the Treasury, as appropriate, shall—

24 (1) carry out diplomatic engagement to secure
25 contributions of financial and technical assistance

1 from international donors and partners in support of
2 the Strategy; and

3 (2) take all necessary steps to ensure effective
4 cooperation among international donors and part-
5 ners supporting the Strategy.

6 **SEC. 1703. COMBATING CORRUPTION, STRENGTHENING**
7 **THE RULE OF LAW, AND CONSOLIDATING**
8 **DEMOCRATIC GOVERNANCE.**

9 The Secretary of State and the Administrator of the
10 United States Agency for International Development are
11 authorized—

12 (1) to combat corruption in Central America by
13 supporting—

14 (A) Inspectors General and oversight insti-
15 tutions, including—

16 (i) support for multilateral support
17 missions for key ministries, including min-
18 istries responsible for tax, customs, pro-
19 curement, and citizen security; and

20 (ii) relevant training for inspectors
21 and auditors;

22 (B) multilateral support missions against
23 corruption and impunity;

24 (C) civil society organizations conducting
25 oversight of executive and legislative branch of-

1 officials and functions, police and security forces,
2 and judicial officials and public prosecutors;
3 and

4 (D) the enhancement of freedom of infor-
5 mation mechanisms;

6 (2) to strengthen the rule of law in Central
7 America by supporting—

8 (A) Attorney General offices, public pros-
9 ecutors, and the judiciary, including enhancing
10 investigative and forensics capabilities;

11 (B) an independent, merit-based selection
12 processes for judges and prosecutors, inde-
13 pendent internal controls, and relevant ethics
14 and professional training, including training on
15 sexual, gender-based, and domestic violence;

16 (C) improved victim, witness, and whistle-
17 blower protection and access to justice; and

18 (D) reforms to and the improvement of
19 prison facilities and management;

20 (3) to consolidate democratic governance in
21 Central America by supporting—

22 (A) reforms of civil services, related train-
23 ing programs, and relevant laws and processes
24 that lead to independent, merit-based selection
25 processes;

1 (B) national legislatures and their capacity
2 to conduct oversight of executive branch func-
3 tions;

4 (C) reforms to, and strengthening of, polit-
5 ical party and campaign finance laws and elec-
6 toral tribunals; and

7 (D) local governments and their capacity
8 to provide critical safety, education, health, and
9 sanitation services to citizens; and

10 (4) to defend human rights by supporting—

11 (A) human rights ombudsman offices;

12 (B) government protection programs that
13 provide physical protection and security to
14 human rights defenders, journalists, trade
15 unionists, whistleblowers, and civil society activ-
16 ists who are at risk;

17 (C) civil society organizations that promote
18 and defend human rights; and

19 (D) civil society organizations that address
20 sexual, gender-based, and domestic violence,
21 and that protect victims of such violence.

1 **SEC. 1704. COMBATING CRIMINAL VIOLENCE AND IMPROV-**
2 **ING CITIZEN SECURITY.**

3 The Secretary of State and the Administrator of the
4 United States Agency for International Development are
5 authorized—

6 (1) to counter the violence and crime per-
7 petrated by armed criminal gangs, illicit trafficking
8 organizations, and human smuggling networks in
9 Central America by providing assistance to civilian
10 law enforcement, including support for—

11 (A) the execution and management of com-
12 plex, multi-actor criminal cases;

13 (B) the enhancement of intelligence collec-
14 tion capacity, and training on civilian intel-
15 ligence collection (including safeguards for pri-
16 vacy and basic civil liberties), investigative tech-
17 niques, forensic analysis, and evidence preserva-
18 tion;

19 (C) community policing policies and pro-
20 grams;

21 (D) the enhancement of capacity to iden-
22 tify, investigate, and prosecute crimes involving
23 sexual, gender-based, and domestic violence;
24 and

25 (E) port, airport, and border security offi-
26 cials, agencies and systems, including—

1 (i) the professionalization of immigra-
2 tion personnel;

3 (ii) improvements to computer infra-
4 structure and data management systems,
5 secure communications technologies, non-
6 intrusive inspection equipment, and radar
7 and aerial surveillance equipment; and

8 (iii) assistance to canine units;

9 (2) to disrupt illicit financial networks in Cen-
10 tral America, including by supporting—

11 (A) finance ministries, including the impo-
12 sition of financial sanctions to block the assets
13 of individuals and organizations involved in
14 money laundering or the financing of armed
15 criminal gangs, illicit trafficking networks,
16 human smuggling networks, or organized crime;

17 (B) financial intelligence units, including
18 the establishment and enhancement of anti-
19 money laundering programs; and

20 (C) the reform of bank secrecy laws;

21 (3) to assist in the professionalization of civilian
22 police forces in Central America by supporting—

23 (A) reforms with respect to personnel re-
24 cruitment, vetting, and dismissal processes, in-

1 including the enhancement of polygraph capa-
2 bility for use in such processes;

3 (B) Inspectors General and oversight of-
4 fices, including relevant training for inspectors
5 and auditors, and independent oversight mecha-
6 nisms, as appropriate; and

7 (C) training and the development of proto-
8 cols regarding the appropriate use of force and
9 human rights; and

10 (4) to improve crime prevention and to reduce
11 violence, extortion, child recruitment into gangs, and
12 sexual slavery by supporting—

13 (A) the improvement of child protection
14 systems;

15 (B) the enhancement of programs for at-
16 risk youth, including the improvement of com-
17 munity centers and programs aimed at success-
18 fully reinserting former gang members;

19 (C) livelihood programming that provides
20 youth and other at-risk individuals with legal
21 and sustainable alternatives to gang member-
22 ship;

23 (D) safe shelter and humanitarian re-
24 sponses for victims of crime and internal dis-
25 placement; and

1 (E) programs to receive and effectively re-
2 integrate repatriated migrants in El Salvador,
3 Guatemala, and Honduras.

4 **SEC. 1705. COMBATING SEXUAL, GENDER-BASED, AND DO-**
5 **MESTIC VIOLENCE.**

6 The Secretary of State and the Administrator of the
7 United States Agency for International Development are
8 authorized to counter sexual, gender-based, and domestic
9 violence in Central American countries by—

10 (1) broadening engagement among national and
11 local institutions to address sexual, gender-based,
12 and domestic violence;

13 (2) supporting educational initiatives to reduce
14 sexual, gender-based, and domestic violence;

15 (3) supporting outreach efforts tailored to meet
16 the needs of women, girls, and other vulnerable indi-
17 viduals at risk of violence and exploitation;

18 (4) formalizing standards of care and confiden-
19 tiality at police, health facilities, and other govern-
20 ment facilities; and

21 (5) establishing accountability mechanisms for
22 perpetrators of violence.

1 **Subtitle B—Information Campaign**
2 **on the Dangers of Irregular Mi-**
3 **gration**

4 **SEC. 1711. INFORMATION CAMPAIGN ON DANGERS OF IR-**
5 **REGULAR MIGRATION.**

6 (a) IN GENERAL.—The Secretary of State, in coordi-
7 nation with the Secretary, shall design and implement
8 public information campaigns in El Salvador, Guatemala,
9 Honduras, and other appropriate Central American coun-
10 tries—

11 (1) to disseminate information about the poten-
12 tial dangers of travel to the United States;

13 (2) to provide accurate information about
14 United States immigration law and policy; and

15 (3) to provide accurate information about the
16 availability of asylum, other humanitarian protec-
17 tions in countries in the Western Hemisphere, and
18 other legal means for migration.

19 (b) ELEMENTS.—The information campaigns imple-
20 mented pursuant to subsection (a), to the greatest extent
21 possible—

22 (1) shall be targeted at regions with high levels
23 of outbound migration or significant populations of
24 internally displaced persons;

1 (2) shall include examples of valid and invalid
2 asylum claims;

3 (3) shall be conducted in local languages;

4 (4) shall employ a variety of communications
5 media, including social media; and

6 (5) shall be developed in coordination with pro-
7 gram officials at the Department of Homeland Secu-
8 rity, the Department of State, and other govern-
9 ment, nonprofit, or academic entities in close contact
10 with migrant populations from El Salvador, Guate-
11 mala, and Honduras, including repatriated migrants.

12 **Subtitle C—Cracking Down on** 13 **Criminal Organizations**

14 **SEC. 1721. ENHANCED INVESTIGATION AND PROSECUTION** 15 **OF HUMAN SMUGGLING NETWORKS AND** 16 **TRAFFICKING ORGANIZATIONS.**

17 The Attorney General and the Secretary shall expand
18 collaboration on the investigation and prosecution of
19 human smuggling networks and trafficking organizations
20 targeting migrants, asylum seekers, and unaccompanied
21 children and operating at the southwestern border of the
22 United States, including the continuation and expansion
23 of anti-trafficking coordination teams.

1 **SEC. 1722. ENHANCED PENALTIES FOR ORGANIZED SMUG-**
2 **GLING SCHEMES.**

3 (a) IN GENERAL.—Section 274(a)(1)(B) of the Im-
4 migration and Nationality Act (8 U.S.C. 1324(a)(1)(B))
5 is amended—

6 (1) by redesignating clauses (iii) and (iv) as
7 clauses (iv) and (v), respectively;

8 (2) by inserting after clause (ii) the following:

9 “(iii) in the case of a violation of subparagraph
10 (A)(i) during and in relation to which the person,
11 while acting for profit or other financial gain, know-
12 ingly directs or participates in a scheme to cause
13 any person (other than a parent, spouse, sibling, son
14 or daughter, grandparent, or grandchild of the of-
15 fender) to enter or to attempt to enter the United
16 States at the same time at a place other than a des-
17 ignated port of entry or place other than designated
18 by the Secretary, be fined under title 18, United
19 States Code, imprisoned not more than 20 years, or
20 both;” and

21 (3) in clause (iv), as redesignated, by inserting
22 “commits or attempts to commit sexual assault of,”
23 after “section 1365 of title 18, United States Code)
24 to,”.

25 (b) BULK CASH SMUGGLING.—Section 5332(b)(1) of
26 title 31, United States Code, is amended—

1 (1) in the paragraph heading, by striking
2 “TERM OF IMPRISONMENT.—” and inserting “IN
3 GENERAL.—”; and

4 (2) by striking “5 years” and inserting “10
5 years, fined under title 18, or both”.

6 **SEC. 1723. EXPANDING FINANCIAL SANCTIONS ON NAR-**
7 **COTICS TRAFFICKING AND MONEY LAUN-**
8 **DERING.**

9 (a) **FINANCIAL SANCTIONS EXPANSION.**—The Sec-
10 retary of the Treasury, the Attorney General, the Sec-
11 retary of State, the Secretary of Defense, and the Director
12 of Central Intelligence shall expand investigations, intel-
13 ligence collection, and analysis pursuant to the Foreign
14 Narcotics Kingpin Designation Act (21 U.S.C. 1901 et
15 seq.) to increase the identification and application of sanc-
16 tions against—

17 (1) significant foreign narcotics traffickers and
18 their organizations and networks; and

19 (2) foreign persons, including government offi-
20 cials, who provide material, financial, or techno-
21 logical support to such traffickers, organizations, or
22 networks.

23 (b) **SPECIFIC TARGETS.**—The activities described in
24 subsection (a) shall specifically target foreign narcotics
25 traffickers, their organizations and networks, and the for-

1 eign persons, including government officials, who provide
2 material, financial, or technological support to such traf-
3 fickers, organizations, and networks that are present and
4 operating in Central America.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as may be
7 necessary to carry out subsection (a).

8 **SEC. 1724. SUPPORT FOR TRANSNATIONAL ANTI-GANG**
9 **TASK FORCES FOR COUNTERING CRIMINAL**
10 **GANGS.**

11 The Director of the Federal Bureau of Investigation,
12 the Director of the Drug Enforcement Administration, the
13 Director of Homeland Security Investigations, and the
14 Secretary, in coordination with the Secretary of State,
15 shall expand the use of transnational task forces that seek
16 to address transnational crime perpetrated by gangs in El
17 Salvador, Guatemala, Honduras, and any other identified
18 country by—

19 (1) expanding transnational criminal investiga-
20 tions focused on criminal gangs in identified coun-
21 tries, such as MS-13 and 18th Street;

22 (2) expanding training and partnership efforts
23 with law enforcement entities in identified countries
24 to disrupt and dismantle criminal gangs, both inter-
25 nationally and in their respective countries;

1 (3) establishing or expanding gang-related in-
2 vestigative units;

3 (4) collecting and disseminating intelligence to
4 support related United States-based investigations;
5 and

6 (5) expanding programming related to gang
7 intervention and prevention for at-risk youth.

8 **DIVISION B—AMERICAN DREAM**
9 **AND PROMISE**

10 **SEC. 21000. SHORT TITLE.**

11 This division may be cited as the “American Dream
12 and Promise Act”.

13 **TITLE I—DREAM ACT**

14 **SEC. 21001. SHORT TITLE.**

15 This title may be cited as the “Dream Act”.

16 **SEC. 21002. PERMANENT RESIDENT STATUS ON A CONDI-**
17 **TIONAL BASIS FOR CERTAIN LONG-TERM**
18 **RESIDENTS WHO ENTERED THE UNITED**
19 **STATES AS CHILDREN.**

20 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
21 standing any other provision of law, and except as pro-
22 vided in section 21004(c)(2), an alien shall be considered,
23 at the time of obtaining the status of an alien lawfully
24 admitted for permanent residence under this section, to

1 have obtained such status on a conditional basis subject
2 to the provisions of this title.

3 (b) REQUIREMENTS.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of law, the Secretary or the Attorney Gen-
6 eral shall adjust to the status of an alien lawfully
7 admitted for permanent residence on a conditional
8 basis, or without the conditional basis as provided in
9 section 21004(c)(2), an alien who is inadmissible or
10 deportable from the United States, is subject to a
11 grant of Deferred Enforced Departure, has tem-
12 porary protected status under section 244 of the Im-
13 migration and Nationality Act (8 U.S.C. 1254a), or
14 is the son or daughter of an alien admitted as a non-
15 immigrant under subparagraph (E)(i), (E)(ii),
16 (H)(i)(b), or (L) of section 101(a)(15) of such Act
17 (8 U.S.C. 1101(a)(15)) if—

18 (A) the alien has been continuously phys-
19 ically present in the United States since the
20 date that is 3 years prior to the date of enact-
21 ment;

22 (B) the alien was 18 years of age or
23 younger on the date on which the alien entered
24 the United States and has continuously resided
25 in the United States since such entry;

1 (C) the alien—

2 (i) subject to paragraph (2), is not in-
3 admissible under paragraph (1), (6)(E),
4 (6)(G), (8), or (10) of section 212(a) of
5 the Immigration and Nationality Act (8
6 U.S.C. 1182(a));

7 (ii) has not ordered, incited, assisted,
8 or otherwise participated in the persecution
9 of any person on account of race, religion,
10 nationality, membership in a particular so-
11 cial group, or political opinion; and

12 (iii) is not barred from adjustment of
13 status under this title based on the crimi-
14 nal and national security grounds de-
15 scribed under subsection (c), subject to the
16 provisions of such subsection; and

17 (D) the alien—

18 (i) has been admitted to an institution
19 of higher education;

20 (ii) has been admitted to an area ca-
21 reer and technical education school at the
22 postsecondary level;

23 (iii) in the United States, has ob-
24 tained—

1 (I) a high school diploma or a
2 commensurate alternative award from
3 a public or private high school;

4 (II) a General Education Devel-
5 opment credential, a high school
6 equivalency diploma recognized under
7 State law, or another similar State-
8 authorized credential;

9 (III) a credential or certificate
10 from an area career and technical
11 education school at the secondary
12 level; or

13 (IV) a recognized postsecondary
14 credential; or

15 (iv) is enrolled in secondary school or
16 in an education program assisting students
17 in—

18 (I) obtaining a high school di-
19 ploma or its recognized equivalent
20 under State law;

21 (II) passing the General Edu-
22 cation Development test, a high school
23 equivalence diploma examination, or
24 other similar State-authorized exam;

- 1 (III) obtaining a certificate or
2 credential from an area career and
3 technical education school providing
4 education at the secondary level; or
5 (IV) obtaining a recognized post-
6 secondary credential.

7 (2) WAIVER OF GROUNDS OF INADMIS-
8 SIBILITY.—With respect to any benefit under this
9 title, and in addition to the waivers under subsection
10 (c)(2), the Secretary may waive the grounds of inad-
11 missibility under paragraph (1), (6)(E), (6)(G), or
12 (10)(D) of section 212(a) of the Immigration and
13 Nationality Act (8 U.S.C. 1182(a)) for humanitarian
14 purposes, for family unity, or because the waiver is
15 otherwise in the public interest.

16 (3) APPLICATION FEE.—

17 (A) IN GENERAL.—The Secretary may,
18 subject to an exemption under section 23003(e),
19 require an alien applying under this section to
20 pay a reasonable fee that is commensurate with
21 the cost of processing the application but does
22 not exceed \$495.00.

23 (B) SPECIAL PROCEDURES FOR APPLI-
24 CANTS WITH DACA.—The Secretary shall estab-
25 lish a streamlined procedure for aliens who have

1 been granted DACA and who meet the require-
2 ments for renewal (under the terms of the pro-
3 gram in effect on January 1, 2017) to apply for
4 adjustment of status to that of an alien lawfully
5 admitted for permanent residence on a condi-
6 tional basis under this section, or without the
7 conditional basis as provided in section
8 21004(c)(2). Such procedure shall not include a
9 requirement that the applicant pay a fee, except
10 that the Secretary may require an applicant
11 who meets the requirements for lawful perma-
12 nent residence without the conditional basis
13 under section 21004(c)(2) to pay a fee that is
14 commensurate with the cost of processing the
15 application, subject to the exemption under sec-
16 tion 23003(c).

17 (4) BACKGROUND CHECKS.—The Secretary
18 may not grant an alien permanent resident status on
19 a conditional basis under this section until the re-
20 quirements of section 23002 are satisfied.

21 (5) MILITARY SELECTIVE SERVICE.—An alien
22 applying for permanent resident status on a condi-
23 tional basis under this section, or without the condi-
24 tional basis as provided in section 21004(c)(2), shall
25 establish that the alien has registered under the

1 Military Selective Service Act (50 U.S.C. 3801 et
2 seq.), if the alien is subject to registration under
3 such Act.

4 (c) CRIMINAL AND NATIONAL SECURITY BARS.—

5 (1) GROUNDS OF INELIGIBILITY.—Except as
6 provided in paragraph (2), an alien is ineligible for
7 adjustment of status under this title (whether on a
8 conditional basis or without the conditional basis as
9 provided in section 21004(c)(2)) if any of the fol-
10 lowing apply:

11 (A) The alien is inadmissible under para-
12 graph (2) or (3) of section 212(a) of the Immi-
13 gration and Nationality Act (8 U.S.C. 1182(a)).

14 (B) Excluding any offense under State law
15 for which an essential element is the alien's im-
16 migration status, and any minor traffic offense,
17 the alien has been convicted of—

18 (i) any felony offense;

19 (ii) two or more misdemeanor offenses
20 (excluding simple possession of cannabis or
21 cannabis-related paraphernalia, any offense
22 involving cannabis or cannabis-related par-
23 aphernalia which is no longer prosecutable
24 in the State in which the conviction was
25 entered, and any offense involving civil dis-

1 obedience without violence) not occurring
2 on the same date, and not arising out of
3 the same act, omission, or scheme of mis-
4 conduct; or

5 (iii) a misdemeanor offense of domes-
6 tic violence, unless the alien demonstrates
7 that such crime is related to the alien hav-
8 ing been—

9 (I) a victim of domestic violence,
10 sexual assault, stalking, child abuse or
11 neglect, abuse or neglect in later life,
12 or human trafficking;

13 (II) battered or subjected to ex-
14 treme cruelty; or

15 (III) a victim of criminal activity
16 described in section 101(a)(15)(U)(iii)
17 of the Immigration and Nationality
18 Act (8 U.S.C. 1101(a)(15)(U)(iii)).

19 (2) WAIVERS FOR CERTAIN MISDEMEANORS.—
20 For humanitarian purposes, family unity, or if oth-
21 erwise in the public interest, the Secretary may—

22 (A) waive the grounds of inadmissibility
23 under subparagraphs (A), (C), and (D) of sec-
24 tion 212(a)(2) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1182(a)(2)), unless the con-

1 viction forming the basis for inadmissibility
2 would otherwise render the alien ineligible
3 under paragraph (1)(B) (subject to subpara-
4 graph (B)); and

5 (B) for purposes of clauses (ii) and (iii) of
6 paragraph (1)(B), waive consideration of—

7 (i) one misdemeanor offense if the
8 alien has not been convicted of any offense
9 in the 5-year period preceding the date on
10 which the alien applies for adjustment of
11 status under this title; or

12 (ii) up to two misdemeanor offenses if
13 the alien has not been convicted of any of-
14 fense in the 10-year period preceding the
15 date on which the alien applies for adjust-
16 ment of status under this title.

17 (3) AUTHORITY TO CONDUCT SECONDARY RE-
18 VIEW.—

19 (A) IN GENERAL.—Notwithstanding an
20 alien's eligibility for adjustment of status under
21 this title, and subject to the procedures de-
22 scribed in this paragraph, the Secretary may,
23 as a matter of non-delegable discretion, provi-
24 sionally deny an application for adjustment of
25 status (whether on a conditional basis or with-

1 out the conditional basis as provided in section
2 21004(c)(2)) if the Secretary, based on clear
3 and convincing evidence, which shall include
4 credible law enforcement information, deter-
5 mines that the alien is described in subpara-
6 graph (B) or (D).

7 (B) PUBLIC SAFETY.—An alien is de-
8 scribed in this subparagraph if—

9 (i) excluding simple possession of can-
10 nabis or cannabis-related paraphernalia,
11 any offense involving cannabis or cannabis-
12 related paraphernalia which is no longer
13 prosecutable in the State in which the con-
14 viction was entered, any offense under
15 State law for which an essential element is
16 the alien's immigration status, any offense
17 involving civil disobedience without vio-
18 lence, and any minor traffic offense, the
19 alien—

20 (I) has been convicted of a mis-
21 demeanor offense punishable by a
22 term of imprisonment of more than
23 30 days; or

24 (II) has been adjudicated delin-
25 quent in a State or local juvenile court

1 proceeding that resulted in a disposi-
2 tion ordering placement in a secure
3 facility; and

4 (ii) the alien poses a significant and
5 continuing threat to public safety related
6 to such conviction or adjudication.

7 (C) PUBLIC SAFETY DETERMINATION.—

8 For purposes of subparagraph (B)(ii), the Sec-
9 retary shall consider the recency of the convic-
10 tion or adjudication; the length of any imposed
11 sentence or placement; the nature and serious-
12 ness of the conviction or adjudication, including
13 whether the elements of the offense include the
14 unlawful possession or use of a deadly weapon
15 to commit an offense or other conduct intended
16 to cause serious bodily injury; and any miti-
17 gating factors pertaining to the alien's role in
18 the commission of the offense.

19 (D) GANG PARTICIPATION.—An alien is
20 described in this subparagraph if the alien has,
21 within the 5 years immediately preceding the
22 date of the application, knowingly, willfully, and
23 voluntarily participated in offenses committed
24 by a criminal street gang (as described in sub-
25 sections (a) and (c) of section 521 of title 18,

1 United States Code) with the intent to promote
2 or further the commission of such offenses.

3 (E) EVIDENTIARY LIMITATION.—For pur-
4 poses of subparagraph (D), allegations of gang
5 membership obtained from a State or Federal
6 in-house or local database, or a network of
7 databases used for the purpose of recording and
8 sharing activities of alleged gang members
9 across law enforcement agencies, shall not es-
10 tablish the participation described in such para-
11 graph.

12 (F) NOTICE.—

13 (i) IN GENERAL.—Prior to rendering
14 a discretionary decision under this para-
15 graph, the Secretary shall provide written
16 notice of the intent to provisionally deny
17 the application to the alien (or the alien's
18 counsel of record, if any) by certified mail
19 and, if an electronic mail address is pro-
20 vided, by electronic mail (or other form of
21 electronic communication). Such notice
22 shall—

23 (I) articulate with specificity all
24 grounds for the preliminary deter-
25 mination, including the evidence relied

1 upon to support the determination;
2 and

3 (II) provide the alien with not
4 less than 90 days to respond.

5 (ii) SECOND NOTICE.—Not more than
6 30 days after the issuance of the notice
7 under clause (i), the Secretary shall pro-
8 vide a second written notice that meets the
9 requirements of such clause.

10 (iii) NOTICE NOT RECEIVED.—Not-
11 withstanding any other provision of law, if
12 an applicant provides good cause for not
13 contesting a provisional denial under this
14 paragraph, including a failure to receive
15 notice as required under this subpara-
16 graph, the Secretary shall, upon a motion
17 filed by the alien, reopen an application for
18 adjustment of status under this title and
19 allow the applicant an opportunity to re-
20 spond, consistent with clause (i)(II).

21 (G) JUDICIAL REVIEW OF A PROVISIONAL
22 DENIAL.—

23 (i) IN GENERAL.—Notwithstanding
24 any other provision of law, if, after notice
25 and the opportunity to respond under sub-

1 paragraph (F), the Secretary provisionally
2 denies an application for adjustment of
3 status under this Act, the alien shall have
4 60 days from the date of the Secretary's
5 determination to seek review of such deter-
6 mination in an appropriate United States
7 district court.

8 (ii) SCOPE OF REVIEW AND DECI-
9 SION.—Notwithstanding any other provi-
10 sion of law, review under paragraph (1)
11 shall be de novo and based solely on the
12 administrative record, except that the ap-
13 plicant shall be given the opportunity to
14 supplement the administrative record and
15 the Secretary shall be given the oppor-
16 tunity to rebut the evidence and arguments
17 raised in such submission. Upon issuing its
18 decision, the court shall remand the mat-
19 ter, with appropriate instructions, to the
20 Department of Homeland Security to
21 render a final decision on the application.

22 (iii) APPOINTED COUNSEL.—Notwith-
23 standing any other provision of law, an ap-
24 plicant seeking judicial review under clause
25 (i) shall be represented by counsel. Upon

1 the request of the applicant, counsel shall
2 be appointed for the applicant, in accord-
3 ance with procedures to be established by
4 the Attorney General within 90 days of the
5 date of the enactment of this Act, and
6 shall be funded in accordance with fees col-
7 lected and deposited in the Immigration
8 Counsel Account under section 23012.

9 (4) DEFINITIONS.—For purposes of this sub-
10 section—

11 (A) the term “felony offense” means an of-
12 fense under Federal or State law that is pun-
13 ishable by a maximum term of imprisonment of
14 more than 1 year;

15 (B) the term “misdemeanor offense”
16 means an offense under Federal or State law
17 that is punishable by a term of imprisonment of
18 more than 5 days but not more than 1 year;
19 and

20 (C) the term “crime of domestic violence”
21 means any offense that has as an element the
22 use, attempted use, or threatened use of phys-
23 ical force against a person committed by a cur-
24 rent or former spouse of the person, by an indi-
25 vidual with whom the person shares a child in

1 common, by an individual who is cohabiting
2 with or has cohabited with the person as a
3 spouse, by an individual similarly situated to a
4 spouse of the person under the domestic or
5 family violence laws of the jurisdiction where
6 the offense occurs, or by any other individual
7 against a person who is protected from that in-
8 dividual's acts under the domestic or family vio-
9 lence laws of the United States or any State,
10 Indian Tribal government, or unit of local gov-
11 ernment.

12 (d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
13 MINORS.—An alien who is 18 years of age or younger and
14 meets the requirements under subparagraphs (A), (B),
15 and (C) of subsection (b)(1) shall be provided a reasonable
16 opportunity to meet the educational requirements under
17 subparagraph (D) of such subsection. The Attorney Gen-
18 eral or the Secretary may not commence or continue with
19 removal proceedings against such an alien.

20 (e) WITHDRAWAL OF APPLICATION.—The Secretary
21 shall, upon receipt of a request to withdraw an application
22 for adjustment of status under this section, cease proc-
23 essing of the application, and close the case. Withdrawal
24 of the application under this subsection shall not prejudice
25 any future application filed by the applicant for any immi-

1 gration benefit under this title or under the Immigration
2 and Nationality Act (8 U.S.C. 1101 et seq.).

3 **SEC. 21003. TERMS OF PERMANENT RESIDENT STATUS ON**
4 **A CONDITIONAL BASIS.**

5 (a) PERIOD OF STATUS.—Permanent resident status
6 on a conditional basis is—

7 (1) valid for a period of 10 years, unless such
8 period is extended by the Secretary; and

9 (2) subject to revocation under subsection (c).

10 (b) NOTICE OF REQUIREMENTS.—At the time an
11 alien obtains permanent resident status on a conditional
12 basis, the Secretary shall provide notice to the alien re-
13 garding the provisions of this title and the requirements
14 to have the conditional basis of such status removed.

15 (c) REVOCATION OF STATUS.—The Secretary may
16 revoke the permanent resident status on a conditional
17 basis of an alien only if the Secretary—

18 (1) determines that the alien ceases to meet the
19 requirements under section 21002(b)(1)(C); and

20 (2) prior to the revocation, provides the alien—

21 (A) notice of the proposed revocation; and

22 (B) the opportunity for a hearing to pro-
23 vide evidence that the alien meets such require-
24 ments or otherwise to contest the proposed rev-
25 ocation.

1 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—
2 An alien whose permanent resident status on a conditional
3 basis expires under subsection (a)(1) or is revoked under
4 subsection (c), shall return to the immigration status that
5 the alien had immediately before receiving permanent resi-
6 dent status on a conditional basis.

7 **SEC. 21004. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
8 **NENT RESIDENT STATUS.**

9 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
10 BASIS.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the Secretary shall remove the conditional basis of
13 an alien's permanent resident status granted under
14 this title and grant the alien status as an alien law-
15 fully admitted for permanent residence if the alien—

16 (A) is described in section 21002(b)(1)(C);

17 (B) has not abandoned the alien's resi-
18 dence in the United States during the period in
19 which the alien has permanent resident status
20 on a conditional basis; and

21 (C)(i) has obtained a degree from an insti-
22 tution of higher education or a recognized post-
23 secondary credential from an area career and
24 technical education school providing education
25 at the postsecondary level;

1 (ii) has served in the Uniformed Services
2 for at least 3 years and, if discharged, received
3 an honorable discharge; or

4 (iii) demonstrates earned income for peri-
5 ods totaling at least 4 years and at least 75
6 percent of the time that the alien has had a
7 valid employment authorization.

8 (2) **HARDSHIP EXCEPTION.**—The Secretary
9 shall remove the conditional basis of an alien’s per-
10 manent resident status and grant the alien status as
11 an alien lawfully admitted for permanent residence
12 if the alien—

13 (A) satisfies the requirements under sub-
14 paragraphs (A) and (B) of paragraph (1);

15 (B) demonstrates compelling circumstances
16 for the inability to satisfy the requirements
17 under subparagraph (C) of such paragraph; and

18 (C) demonstrates that—

19 (i) the alien has a disability;

20 (ii) the alien is a full-time caregiver;

21 or

22 (iii) the removal of the alien from the
23 United States would result in hardship to
24 the alien or the alien’s spouse, parent, or
25 child who is a national of the United

1 States or is lawfully admitted for perma-
2 nent residence.

3 (3) CITIZENSHIP REQUIREMENT.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the conditional basis of an
6 alien's permanent resident status granted under
7 this title may not be removed unless the alien
8 demonstrates that the alien satisfies the re-
9 quirements under section 3112(a) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1423(a)).

11 (B) EXCEPTION.—Subparagraph (A) shall
12 not apply to an alien who is unable to meet the
13 requirements under such section 23012(a) due
14 to disability.

15 (4) APPLICATION FEE.—The Secretary may,
16 subject to an exemption under section 23003(c), re-
17 quire aliens applying for removal of the conditional
18 basis of an alien's permanent resident status under
19 this section to pay a reasonable fee that is commen-
20 surate with the cost of processing the application.

21 (5) BACKGROUND CHECKS.—The Secretary
22 may not remove the conditional basis of an alien's
23 permanent resident status until the requirements of
24 section 23002 are satisfied.

1 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
2 TION.—

3 (1) IN GENERAL.—For purposes of title III of
4 the Immigration and Nationality Act (8 U.S.C. 1401
5 et seq.), an alien granted permanent resident status
6 on a conditional basis shall be considered to have
7 been admitted to the United States, and be present
8 in the United States, as an alien lawfully admitted
9 for permanent residence.

10 (2) LIMITATION ON APPLICATION FOR NATU-
11 RALIZATION.—An alien may not apply for natu-
12 ralization while the alien is in permanent resident
13 status on a conditional basis.

14 (c) TIMING OF APPROVAL OF LAWFUL PERMANENT
15 RESIDENT STATUS.—

16 (1) IN GENERAL.—An alien granted permanent
17 resident status on a conditional basis under this title
18 may apply to have such conditional basis removed at
19 any time after such alien has met the eligibility re-
20 quirements set forth in subsection (a).

21 (2) APPROVAL WITH REGARD TO INITIAL APPLI-
22 CATIONS.—

23 (A) IN GENERAL.—Notwithstanding any
24 other provision of law, the Secretary or the At-
25 torney General shall adjust to the status of an

1 alien lawfully admitted for permanent resident
2 status without conditional basis, any alien
3 who—

4 (i) demonstrates eligibility for lawful
5 permanent residence status on a condi-
6 tional basis under section 21002(b); and

7 (ii) subject to the exceptions described
8 in subsections (a)(2) and (a)(3)(B) of this
9 section, already has fulfilled the require-
10 ments of paragraphs (1) and (3) of sub-
11 section (a) of this section at the time such
12 alien first submits an application for bene-
13 fits under this title.

14 (B) BACKGROUND CHECKS.—Subsection
15 (a)(5) shall apply to an alien seeking lawful
16 permanent resident status without conditional
17 basis in an initial application in the same man-
18 ner as it applies to an alien seeking removal of
19 the conditional basis of an alien's permanent
20 resident status. Section 21002(b)(4) shall not
21 be construed to require the Secretary to con-
22 duct more than one identical security or law en-
23 forcement background check on such an alien.

24 (C) APPLICATION FEES.—In the case of an
25 alien seeking lawful permanent resident status

1 without conditional basis in an initial applica-
2 tion, the alien shall pay the fee required under
3 subsection (a)(4), subject to the exemption al-
4 lowed under section 23003, but shall not be re-
5 quired to pay the application fee under section
6 21002(b)(3).

7 **SEC. 21005. RESTORATION OF STATE OPTION TO DETER-**
8 **MINE RESIDENCY FOR PURPOSES OF HIGHER**
9 **EDUCATION BENEFITS.**

10 (a) **IN GENERAL.**—Section 505 of the Illegal Immi-
11 gration Reform and Immigrant Responsibility Act of 1996
12 (8 U.S.C. 1623) is repealed.

13 (b) **EFFECTIVE DATE.**—The repeal under subsection
14 (a) shall take effect as if included in the original enact-
15 ment of the Illegal Immigration Reform and Immigrant
16 Responsibility Act of 1996 (division C of Public Law 104–
17 208; 110 Stat. 3009–546).

18 **TITLE II—AMERICAN PROMISE**
19 **ACT**

20 **SEC. 22001. SHORT TITLE.**

21 This title may be cited as the “American Promise
22 Act”.

1 **SEC. 22002. ADJUSTMENT OF STATUS FOR CERTAIN NA-**
2 **TIONALS OF CERTAIN COUNTRIES DES-**
3 **IGNATED FOR TEMPORARY PROTECTED STA-**
4 **TUS OR DEFERRED ENFORCED DEPARTURE.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, the Secretary or the Attorney General shall
7 adjust to the status of an alien lawfully admitted for per-
8 manent residence, an alien described in subsection (b) if
9 the alien—

10 (1) applies for such adjustment, including sub-
11 mitting any required documents under section
12 23007, not later than 5 years after the date of the
13 enactment of this Act;

14 (2) has been continuously physically present in
15 the United States for a period of not less than 3
16 years after the date of enactment of this Act; and

17 (3) subject to subsection (c), is not inadmissible
18 under paragraph (1), (2), (3), (6)(D), (6)(E),
19 (6)(F), (6)(G), (8), or (10) of section 212(a) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1182(a)).

22 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
23 TUS.—An alien shall be eligible for adjustment of status
24 under this section if the alien is an individual who—

25 (1) is a national of a foreign state (or part
26 thereof) (or in the case of an alien having no nation-

1 ality, is a person who last habitually resided in such
2 state) with a designation under subsection (b) of
3 section 244 of the Immigration and Nationality Act
4 (8 U.S.C. 1254a(b)) as of March 8, 2021, who had
5 or was otherwise eligible for temporary protected
6 status on such date notwithstanding subsections
7 (c)(1)(A)(iv) and (c)(3)(C) of such section; and

8 (2) has not engaged in conduct since such date
9 that would render the alien ineligible for temporary
10 protected status under section 244(c)(2) of the Im-
11 migration and Nationality Act (8 U.S.C.
12 1245a(c)(2)).

13 (c) WAIVER OF GROUNDS OF INADMISSIBILITY.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), with respect to any benefit under this
16 title, and in addition to any waivers that are other-
17 wise available, the Secretary may waive the grounds
18 of inadmissibility under paragraph (1), subpara-
19 graphs (A), (C), and (D) of paragraph (2), subpara-
20 graphs (D) through (G) of paragraph (6), or para-
21 graph (10)(D) of section 212(a) of the Immigration
22 and Nationality Act (8 U.S.C. 1182(a)) for humani-
23 tarian purposes, for family unity, or because the
24 waiver is otherwise in the public interest.

1 (2) EXCEPTION.—The Secretary may not waive
2 a ground described in paragraph (1) if such inad-
3 missibility is based on a conviction or convictions,
4 and such conviction or convictions would otherwise
5 render the alien ineligible under section
6 244(c)(2)(B) of the Immigration and Nationality
7 Act (8 U.S.C. 1254a(c)(2)(B)).

8 (d) APPLICATION.—

9 (1) FEE.—The Secretary shall, subject to an
10 exemption under section 23003(c), require an alien
11 applying for adjustment of status under this section
12 to pay a reasonable fee that is commensurate with
13 the cost of processing the application, but does not
14 exceed \$1,140.

15 (2) BACKGROUND CHECKS.—The Secretary
16 may not grant an alien permanent resident status on
17 a conditional basis under this section until the re-
18 quirements of section 23002 are satisfied.

19 (3) WITHDRAWAL OF APPLICATION.—The Sec-
20 retary of Homeland Security shall, upon receipt of
21 a request to withdraw an application for adjustment
22 of status under this section, cease processing of the
23 application and close the case. Withdrawal of the ap-
24 plication under this subsection shall not prejudice
25 any future application filed by the applicant for any

1 immigration benefit under this title or under the Im-
2 migration and Nationality Act (8 U.S.C. 1101 et
3 seq.).

4 **SEC. 22003. CLARIFICATION.**

5 Section 244(f)(4) of the Immigration and Nationality
6 Act (8 U.S.C. 1254a(f)(4)) is amended by inserting after
7 “considered” the following: “as having been inspected and
8 admitted into the United States, and”.

9 **TITLE III—GENERAL**
10 **PROVISIONS**

11 **SEC. 23001. DEFINITIONS.**

12 (a) IN GENERAL.—In this division:

13 (1) IN GENERAL.—Except as otherwise specifi-
14 cally provided, any term used in this division that is
15 used in the immigration laws shall have the meaning
16 given such term in the immigration laws.

17 (2) APPROPRIATE UNITED STATES DISTRICT
18 COURT.—The term “appropriate United States dis-
19 trict court” means the United States District Court
20 for the District of Columbia or the United States
21 district court with jurisdiction over the alien’s prin-
22 cipal place of residence.

23 (3) AREA CAREER AND TECHNICAL EDUCATION
24 SCHOOL.—The term “area career and technical edu-
25 cation school” has the meaning given such term in

1 section 3 of the Carl D. Perkins Career and Tech-
2 nical Education Act of 2006 (20 U.S.C. 2302).

3 (4) DACA.—The term “DACA” means de-
4 ferred action granted to an alien pursuant to the
5 Deferred Action for Childhood Arrivals policy an-
6 nounced by the Secretary of Homeland Security on
7 June 15, 2012.

8 (5) DISABILITY.—The term “disability” has the
9 meaning given such term in section 3(1) of the
10 Americans with Disabilities Act of 1990 (42 U.S.C.
11 12102(1)).

12 (6) FEDERAL POVERTY LINE.—The term “Fed-
13 eral poverty line” has the meaning given such term
14 in section 213A(h) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1183a).

16 (7) HIGH SCHOOL; SECONDARY SCHOOL.—The
17 terms “high school” and “secondary school” have
18 the meanings given such terms in section 8101 of
19 the Elementary and Secondary Education Act of
20 1965 (20 U.S.C. 7801).

21 (8) IMMIGRATION LAWS.—The term “immigra-
22 tion laws” has the meaning given such term in sec-
23 tion 101(a)(17) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(17)).

1 (9) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education”—

3 (A) except as provided in subparagraph
4 (B), has the meaning given such term in section
5 102 of the Higher Education Act of 1965 (20
6 U.S.C. 1002); and

7 (B) does not include an institution of high-
8 er education outside of the United States.

9 (10) RECOGNIZED POSTSECONDARY CREDEN-
10 TIAL.—The term “recognized postsecondary creden-
11 tial” has the meaning given such term in section 3
12 of the Workforce Innovation and Opportunity Act
13 (29 U.S.C. 3102).

14 (11) SECRETARY.—Except as otherwise specifi-
15 cally provided, the term “Secretary” means the Sec-
16 retary of Homeland Security.

17 (12) UNIFORMED SERVICES.—The term “Uni-
18 formed Services” has the meaning given the term
19 “uniformed services” in section 101(a) of title 10,
20 United States Code.

21 (b) TREATMENT OF EXPUNGED CONVICTIONS.—For
22 purposes of adjustment of status under this division, the
23 terms “convicted” and “conviction”, as used in this divi-
24 sion and in sections 212 and 244 of the Immigration and
25 Nationality Act (8 U.S.C. 1182, 1254a), do not include

1 a judgment that has been expunged or set aside, that re-
2 sulted in a rehabilitative disposition, or the equivalent.

3 **SEC. 23002. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC**
4 **DATA; BACKGROUND CHECKS.**

5 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
6 DATA.—The Secretary may not grant an alien adjustment
7 of status under this division, on either a conditional or
8 permanent basis, unless the alien submits biometric and
9 biographic data, in accordance with procedures established
10 by the Secretary. The Secretary shall provide an alter-
11 native procedure for aliens who are unable to provide such
12 biometric or biographic data because of a physical impair-
13 ment.

14 (b) BACKGROUND CHECKS.—The Secretary shall use
15 biometric, biographic, and other data that the Secretary
16 determines appropriate to conduct security and law en-
17 forcement background checks and to determine whether
18 there is any criminal, national security, or other factor
19 that would render the alien ineligible for adjustment of
20 status under this division, on either a conditional or per-
21 manent basis. The status of an alien may not be adjusted,
22 on either a conditional or permanent basis, unless security
23 and law enforcement background checks are completed to
24 the satisfaction of the Secretary.

1 **SEC. 23003. LIMITATION ON REMOVAL; APPLICATION AND**
2 **FEE EXEMPTION; AND OTHER CONDITIONS**
3 **ON ELIGIBLE INDIVIDUALS.**

4 (a) **LIMITATION ON REMOVAL.**—An alien who ap-
5 pears to be prima facie eligible for relief under this divi-
6 sion shall be given a reasonable opportunity to apply for
7 such relief and may not be removed until, subject to sec-
8 tion 23006(c)(2), a final decision establishing ineligibility
9 for relief is rendered.

10 (b) **APPLICATION.**—An alien present in the United
11 States who has been ordered removed or has been per-
12 mitted to depart voluntarily from the United States may,
13 notwithstanding such order or permission to depart, apply
14 for adjustment of status under this division. Such alien
15 shall not be required to file a separate motion to reopen,
16 reconsider, or vacate the order of removal. If the Secretary
17 approves the application, the Secretary shall cancel the
18 order of removal. If the Secretary renders a final adminis-
19 trative decision to deny the application, the order of re-
20 moval or permission to depart shall be effective and en-
21 forceable to the same extent as if the application had not
22 been made, only after all available administrative and judi-
23 cial remedies have been exhausted.

24 (c) **FEE EXEMPTION.**—An applicant may be exempt-
25 ed from paying an application fee required under this divi-
26 sion if the applicant—

1 (1) is 18 years of age or younger;

2 (2) received total income, during the 12-month
3 period immediately preceding the date on which the
4 applicant files an application under this division,
5 that is less than 150 percent of the Federal poverty
6 line;

7 (3) is in foster care or otherwise lacks any pa-
8 rental or other familial support; or

9 (4) cannot care for himself or herself because of
10 a serious, chronic disability.

11 (d) ADVANCE PAROLE.—During the period beginning
12 on the date on which an alien applies for adjustment of
13 status under this division and ending on the date on which
14 the Secretary makes a final decision regarding such appli-
15 cation, the alien shall be eligible to apply for advance pa-
16 role. Section 101(g) of the Immigration and Nationality
17 Act (8 U.S.C. 1101(g)) shall not apply to an alien granted
18 advance parole under this Act.

19 (e) EMPLOYMENT.—An alien whose removal is stayed
20 pursuant to this division, who may not be placed in re-
21 moval proceedings pursuant to this division, or who has
22 pending an application under this division, shall, upon ap-
23 plication to the Secretary, be granted an employment au-
24 thorization document.

1 **SEC. 23004. DETERMINATION OF CONTINUOUS PRESENCE**
2 **AND RESIDENCE.**

3 (a) EFFECT OF NOTICE TO APPEAR.—Any period of
4 continuous physical presence or continuous residence in
5 the United States of an alien who applies for permanent
6 resident status under this division (whether on a condi-
7 tional basis or without the conditional basis as provided
8 in section 21004(c)(2)) shall not terminate when the alien
9 is served a notice to appear under section 239(a) of the
10 Immigration and Nationality Act (8 U.S.C. 1229(a)).

11 (b) TREATMENT OF CERTAIN BREAKS IN PRESENCE
12 OR RESIDENCE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graphs (2) and (3), an alien shall be considered to
15 have failed to maintain—

16 (A) continuous physical presence in the
17 United States under this division if the alien
18 has departed from the United States for any
19 period exceeding 90 days or for any periods, in
20 the aggregate, exceeding 180 days; and

21 (B) continuous residence in the United
22 States under this division if the alien has de-
23 parted from the United States for any period
24 exceeding 180 days, unless the alien establishes
25 to the satisfaction of the Secretary of Home-
26 land Security that the alien did not in fact

1 abandon residence in the United States during
2 such period.

3 (2) EXTENSIONS FOR EXTENUATING CIR-
4 CUMSTANCES.—The Secretary may extend the time
5 periods described in paragraph (1) for an alien who
6 demonstrates that the failure to timely return to the
7 United States was due to extenuating circumstances
8 beyond the alien’s control, including—

9 (A) the serious illness of the alien;

10 (B) death or serious illness of a parent,
11 grandparent, sibling, or child of the alien;

12 (C) processing delays associated with the
13 application process for a visa or other travel
14 document; or

15 (D) restrictions on international travel due
16 to the public health emergency declared by the
17 Secretary of Health and Human Services under
18 section 3119 of the Public Health Service Act
19 (42 U.S.C. 247d) with respect to COVID–19.

20 (3) TRAVEL AUTHORIZED BY THE SEC-
21 RETARY.—Any period of travel outside of the United
22 States by an alien that was authorized by the Sec-
23 retary may not be counted toward any period of de-
24 parture from the United States under paragraph
25 (1).

1 (c) WAIVER OF PHYSICAL PRESENCE.—With respect
2 to aliens who were removed or departed the United States
3 on or after January 20, 2017, and who were continuously
4 physically present in the United States for at least 5 years
5 prior to such removal or departure, the Secretary may,
6 as a matter of discretion, waive the physical presence re-
7 quirement under section 21002(b)(1)(A) or section
8 22002(a)(2) for humanitarian purposes, for family unity,
9 or because a waiver is otherwise in the public interest. The
10 Secretary, in consultation with the Secretary of State,
11 shall establish a procedure for such aliens to apply for re-
12 lief under section 21002 or 22002 from outside the United
13 States if they would have been eligible for relief under
14 such section, but for their removal or departure.

15 **SEC. 23005. EXEMPTION FROM NUMERICAL LIMITATIONS.**

16 Nothing in this division or in any other law may be
17 construed to apply a numerical limitation on the number
18 of aliens who may be granted permanent resident status
19 under this division (whether on a conditional basis, or
20 without the conditional basis as provided in section
21 21004(c)(2)).

22 **SEC. 23006. AVAILABILITY OF ADMINISTRATIVE AND JUDI-**
23 **CIAL REVIEW.**

24 (a) ADMINISTRATIVE REVIEW.—Not later than 30
25 days after the date of the enactment of this Act, the Sec-

1 retary shall provide to aliens who have applied for adjust-
2 ment of status under this division a process by which an
3 applicant may seek administrative appellate review of a
4 denial of an application for adjustment of status, or a rev-
5 ocation of such status.

6 (b) JUDICIAL REVIEW.—Except as provided in sub-
7 section (c), and notwithstanding any other provision of
8 law, an alien may seek judicial review of a denial of an
9 application for adjustment of status, or a revocation of
10 such status, under this division in an appropriate United
11 States district court.

12 (c) STAY OF REMOVAL.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), an alien seeking administrative or judicial
15 review under this division may not be removed from
16 the United States until a final decision is rendered
17 establishing that the alien is ineligible for adjust-
18 ment of status under this Act.

19 (2) EXCEPTION.—The Secretary may remove
20 an alien described in paragraph (1) pending judicial
21 review if such removal is based on criminal or na-
22 tional security grounds described in this division.
23 Such removal shall not affect the alien's right to ju-
24 dicial review under this division. The Secretary shall
25 promptly return a removed alien if a decision to

1 deny an application for adjustment of status under
2 this division, or to revoke such status, is reversed.

3 **SEC. 23007. DOCUMENTATION REQUIREMENTS.**

4 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
5 alien’s application for permanent resident status under
6 this division (whether on a conditional basis, or without
7 the conditional basis as provided in section 21004(c)(2))
8 may include, as evidence of identity, the following:

9 (1) A passport or national identity document
10 from the alien’s country of origin that includes the
11 alien’s name and the alien’s photograph or finger-
12 print.

13 (2) The alien’s birth certificate and an identity
14 card that includes the alien’s name and photograph.

15 (3) A school identification card that includes
16 the alien’s name and photograph, and school records
17 showing the alien’s name and that the alien is or
18 was enrolled at the school.

19 (4) A Uniformed Services identification card
20 issued by the Department of Defense.

21 (5) Any immigration or other document issued
22 by the United States Government bearing the alien’s
23 name and photograph.

24 (6) A State-issued identification card bearing
25 the alien’s name and photograph.

1 (7) Any other evidence determined to be cred-
2 ible by the Secretary.

3 (b) DOCUMENTS ESTABLISHING ENTRY, CONTIN-
4 UOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF
5 RESIDENCE.—To establish that an alien was 18 years of
6 age or younger on the date on which the alien entered
7 the United States, and has continuously resided in the
8 United States since such entry, as required under section
9 21002(b)(1)(B), that an alien has been continuously phys-
10 ically present in the United States, as required under sec-
11 tion 21002(b)(1)(A) or 202(a)(2), or that an alien has not
12 abandoned residence in the United States, as required
13 under section 21004(a)(1)(B), the alien may submit the
14 following forms of evidence:

15 (1) Passport entries, including admission
16 stamps on the alien's passport.

17 (2) Any document from the Department of Jus-
18 tice or the Department of Homeland Security noting
19 the alien's date of entry into the United States.

20 (3) Records from any educational institution
21 the alien has attended in the United States.

22 (4) Employment records of the alien that in-
23 clude the employer's name and contact information,
24 or other records demonstrating earned income.

1 (5) Records of service from the Uniformed
2 Services.

3 (6) Official records from a religious entity con-
4 firming the alien's participation in a religious cere-
5 mony.

6 (7) A birth certificate for a child who was born
7 in the United States.

8 (8) Hospital or medical records showing med-
9 ical treatment or hospitalization, the name of the
10 medical facility or physician, and the date of the
11 treatment or hospitalization.

12 (9) Automobile license receipts or registration.

13 (10) Deeds, mortgages, or rental agreement
14 contracts.

15 (11) Rent receipts or utility bills bearing the
16 alien's name or the name of an immediate family
17 member of the alien, and the alien's address.

18 (12) Tax receipts.

19 (13) Insurance policies.

20 (14) Remittance records, including copies of
21 money order receipts sent in or out of the country.

22 (15) Travel records.

23 (16) Dated bank transactions.

24 (17) Two or more sworn affidavits from individ-
25 uals who are not related to the alien who have direct

1 knowledge of the alien's continuous physical pres-
2 ence in the United States, that contain—

3 (A) the name, address, and telephone num-
4 ber of the affiant; and

5 (B) the nature and duration of the rela-
6 tionship between the affiant and the alien.

7 (18) Any other evidence determined to be cred-
8 ible by the Secretary.

9 (c) DOCUMENTS ESTABLISHING ADMISSION TO AN
10 INSTITUTION OF HIGHER EDUCATION.—To establish that
11 an alien has been admitted to an institution of higher edu-
12 cation, the alien may submit to the Secretary a document
13 from the institution of higher education certifying that the
14 alien—

15 (1) has been admitted to the institution; or

16 (2) is currently enrolled in the institution as a
17 student.

18 (d) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
19 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—
20 To establish that an alien has acquired a degree from an
21 institution of higher education in the United States, the
22 alien may submit to the Secretary a diploma or other doc-
23 ument from the institution stating that the alien has re-
24 ceived such a degree.

1 (e) DOCUMENTS ESTABLISHING RECEIPT OF A HIGH
2 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
3 MENT CREDENTIAL, OR A RECOGNIZED EQUIVALENT.—

4 To establish that in the United States an alien has earned
5 a high school diploma or a commensurate alternative
6 award from a public or private high school, has obtained
7 the General Education Development credential, or other-
8 wise has satisfied section 21002(b)(1)(D)(iii), the alien
9 may submit to the Secretary the following:

10 (1) A high school diploma, certificate of comple-
11 tion, or other alternate award.

12 (2) A high school equivalency diploma or certifi-
13 cate recognized under State law.

14 (3) Evidence that the alien passed a State-au-
15 thorized exam, including the General Education De-
16 velopment test, in the United States.

17 (4) Evidence that the alien successfully com-
18 pleted an area career and technical education pro-
19 gram, such as a certification, certificate, or similar
20 alternate award.

21 (5) Evidence that the alien obtained a recog-
22 nized postsecondary credential.

23 (6) Any other evidence determined to be cred-
24 ible by the Secretary.

1 (f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
2 EDUCATIONAL PROGRAM.—To establish that an alien is
3 enrolled in any school or education program described in
4 section 21002(b)(1)(D)(iv) or 21004(a)(1)(C), the alien
5 may submit school records from the United States school
6 that the alien is currently attending that include—

7 (1) the name of the school; and

8 (2) the alien’s name, periods of attendance, and
9 current grade or educational level.

10 (g) DOCUMENTS ESTABLISHING EXEMPTION FROM
11 APPLICATION FEES.—To establish that an alien is exempt
12 from an application fee under this division, the alien may
13 submit to the Secretary the following relevant documents:

14 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
15 tablish that an alien meets an age requirement, the
16 alien may provide proof of identity, as described in
17 subsection (a), that establishes that the alien is 18
18 years of age or younger.

19 (2) DOCUMENTS TO ESTABLISH INCOME.—To
20 establish the alien’s income, the alien may provide—

21 (A) employment records or other records of
22 earned income, including records that have been
23 maintained by the Social Security Administra-
24 tion, the Internal Revenue Service, or any other
25 Federal, State, or local government agency;

1 (B) bank records; or

2 (C) at least two sworn affidavits from indi-
3 viduals who are not related to the alien and
4 who have direct knowledge of the alien's work
5 and income that contain—

6 (i) the name, address, and telephone
7 number of the affiant; and

8 (ii) the nature and duration of the re-
9 lationship between the affiant and the
10 alien.

11 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
12 LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
13 DISABILITY.—To establish that the alien is in foster
14 care, lacks parental or familial support, or has a se-
15 rious, chronic disability, the alien may provide at
16 least two sworn affidavits from individuals who are
17 not related to the alien and who have direct knowl-
18 edge of the circumstances that contain—

19 (A) a statement that the alien is in foster
20 care, otherwise lacks any parental or other fa-
21 miliar support, or has a serious, chronic dis-
22 ability, as appropriate;

23 (B) the name, address, and telephone num-
24 ber of the affiant; and

1 (C) the nature and duration of the rela-
2 tionship between the affiant and the alien.

3 (h) DOCUMENTS ESTABLISHING QUALIFICATION FOR
4 HARDSHIP EXEMPTION.—To establish that an alien satis-
5 fies one of the criteria for the hardship exemption set forth
6 in section 21004(a)(2)(C), the alien may submit to the
7 Secretary at least two sworn affidavits from individuals
8 who are not related to the alien and who have direct
9 knowledge of the circumstances that warrant the exemp-
10 tion, that contain—

11 (1) the name, address, and telephone number of
12 the affiant; and

13 (2) the nature and duration of the relationship
14 between the affiant and the alien.

15 (i) DOCUMENTS ESTABLISHING SERVICE IN THE
16 UNIFORMED SERVICES.—To establish that an alien has
17 served in the Uniformed Services for at least 2 years and,
18 if discharged, received an honorable discharge, the alien
19 may submit to the Secretary—

20 (1) a Department of Defense form DD-214;

21 (2) a National Guard Report of Separation and
22 Record of Service form 22;

23 (3) personnel records for such service from the
24 appropriate Uniformed Service; or

1 (4) health records from the appropriate Uni-
2 formed Service.

3 (j) DOCUMENTS ESTABLISHING EARNED INCOME.—

4 (1) IN GENERAL.—An alien may satisfy the
5 earned income requirement under section
6 21004(a)(1)(C)(iii) by submitting records that—

7 (A) establish compliance with such require-
8 ment; and

9 (B) have been maintained by the Social Se-
10 curity Administration, the Internal Revenue
11 Service, or any other Federal, State, or local
12 government agency.

13 (2) OTHER DOCUMENTS.—An alien who is un-
14 able to submit the records described in paragraph
15 (1) may satisfy the earned income requirement by
16 submitting at least two types of reliable documents
17 that provide evidence of employment or other forms
18 of earned income, including—

19 (A) bank records;

20 (B) business records;

21 (C) employer or contractor records;

22 (D) records of a labor union, day labor
23 center, or organization that assists workers in
24 employment;

1 (E) sworn affidavits from individuals who
2 are not related to the alien and who have direct
3 knowledge of the alien's work, that contain—

4 (i) the name, address, and telephone
5 number of the affiant; and

6 (ii) the nature and duration of the re-
7 lationship between the affiant and the
8 alien;

9 (F) remittance records; or

10 (G) any other evidence determined to be
11 credible by the Secretary.

12 (k) **AUTHORITY TO PROHIBIT USE OF CERTAIN**
13 **DOCUMENTS.**—If the Secretary determines, after publica-
14 tion in the Federal Register and an opportunity for public
15 comment, that any document or class of documents does
16 not reliably establish identity or that permanent resident
17 status under this division (whether on a conditional basis,
18 or without the conditional basis as provided in section
19 21004(c)(2)) is being obtained fraudulently to an unac-
20 ceptable degree, the Secretary may prohibit or restrict the
21 use of such document or class of documents.

22 **SEC. 23008. RULE MAKING.**

23 (a) **IN GENERAL.**—Not later than 90 days after the
24 date of the enactment of this Act, the Secretary shall pub-
25 lish in the Federal Register interim final rules imple-

1 menting this division, which shall allow eligible individuals
2 to immediately apply for relief under this division. Not-
3 withstanding section 553 of title 5, United States Code,
4 the regulation shall be effective, on an interim basis, im-
5 mediately upon publication, but may be subject to change
6 and revision after public notice and opportunity for a pe-
7 riod of public comment. The Secretary shall finalize such
8 rules not later than 180 days after the date of publication.

9 (b) PAPERWORK REDUCTION ACT.—The require-
10 ments under chapter 35 of title 44, United States Code
11 (commonly known as the “Paperwork Reduction Act”),
12 shall not apply to any action to implement this Act.

13 **SEC. 23009. CONFIDENTIALITY OF INFORMATION.**

14 (a) IN GENERAL.—The Secretary may not disclose
15 or use information (including information provided during
16 administrative or judicial review) provided in applications
17 filed under this division or in requests for DACA for the
18 purpose of immigration enforcement.

19 (b) REFERRALS PROHIBITED.—The Secretary, based
20 solely on information provided in an application for adjust-
21 ment of status under this division (including information
22 provided during administrative or judicial review) or an
23 application for DACA, may not refer an applicant to U.S.
24 Immigration and Customs Enforcement, U.S. Customs

1 and Border Protection, or any designee of either such enti-
2 ty.

3 (c) LIMITED EXCEPTION.—Notwithstanding sub-
4 sections (a) and (b), information provided in an applica-
5 tion for adjustment of status under this division may be
6 shared with Federal security and law enforcement agen-
7 cies—

8 (1) for assistance in the consideration of an ap-
9 plication for adjustment of status under this divi-
10 sion;

11 (2) to identify or prevent fraudulent claims;

12 (3) for national security purposes; or

13 (4) for the investigation or prosecution of any
14 felony offense not related to immigration status.

15 (d) PENALTY.—Any person who knowingly uses, pub-
16 lishes, or permits information to be examined in violation
17 of this section shall be fined not more than \$10,000.

18 **SEC. 23010. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
19 **CANTS.**

20 (a) ESTABLISHMENT.—The Secretary shall establish,
21 within U.S. Citizenship and Immigration Services, a pro-
22 gram to award grants, on a competitive basis, to eligible
23 nonprofit organizations that will use the funding to assist
24 eligible applicants under this division by providing them
25 with the services described in subsection (b).

1 (b) USE OF FUNDS.—Grant funds awarded under
2 this section shall be used for the design and implementa-
3 tion of programs that provide—

4 (1) information to the public regarding the eli-
5 gibility and benefits of permanent resident status
6 under this division (whether on a conditional basis,
7 or without the conditional basis as provided in sec-
8 tion 21004(e)(2)), particularly to individuals poten-
9 tially eligible for such status;

10 (2) assistance, within the scope of authorized
11 practice of immigration law, to individuals submit-
12 ting applications for adjustment of status under this
13 division (whether on a conditional basis, or without
14 the conditional basis as provided in section
15 21004(e)(2)), including—

16 (A) screening prospective applicants to as-
17 sess their eligibility for such status;

18 (B) completing applications and petitions,
19 including providing assistance in obtaining the
20 requisite documents and supporting evidence;
21 and

22 (C) providing any other assistance that the
23 Secretary or grantee considers useful or nec-
24 essary to apply for adjustment of status under
25 this division (whether on a conditional basis, or

1 without the conditional basis as provided in sec-
2 tion 21004(c)(2)); and

3 (3) assistance, within the scope of authorized
4 practice of immigration law, and instruction, to indi-
5 viduals—

6 (A) on the rights and responsibilities of
7 United States citizenship;

8 (B) in civics and English as a second lan-
9 guage;

10 (C) in preparation for the General Edu-
11 cation Development test; and

12 (D) in applying for adjustment of status
13 and United States citizenship.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—

15 (1) AMOUNTS AUTHORIZED.—There are author-
16 ized to be appropriated such sums as may be nec-
17 essary for each of the fiscal years 2024 through
18 2034 to carry out this section.

19 (2) AVAILABILITY.—Any amounts appropriated
20 pursuant to paragraph (1) shall remain available
21 until expended.

22 **SEC. 23011. PROVISIONS AFFECTING ELIGIBILITY FOR AD-**
23 **JUSTMENT OF STATUS.**

24 An alien's eligibility to be lawfully admitted for per-
25 manent residence under this division (whether on a condi-

1 tional basis, or without the conditional basis as provided
2 in section 21004(c)(2)) shall not preclude the alien from
3 seeking any status under any other provision of law for
4 which the alien may otherwise be eligible.

5 **SEC. 23012. SUPPLEMENTARY SURCHARGE FOR APPOINTED**
6 **COUNSEL.**

7 (a) IN GENERAL.—Except as provided in section
8 23002 and in cases where the applicant is exempt from
9 paying a fee under section 23003(c), in any case in which
10 a fee is charged pursuant to this division, an additional
11 surcharge of \$25 shall be imposed and collected for the
12 purpose of providing appointed counsel to applicants seek-
13 ing judicial review of the Secretary’s decision to provision-
14 ally deny an application under this Act.

15 (b) IMMIGRATION COUNSEL ACCOUNT.—There is es-
16 tablished in the general fund of the Treasury a separate
17 account which shall be known as the “Immigration Coun-
18 sel Account”. Fees collected under subsection (a) shall be
19 deposited into the Immigration Counsel Account and shall
20 remain available until expended for purposes of providing
21 appointed counsel as required under this Act.

22 (c) REPORT.—At the end of each 2-year period, be-
23 ginning with the establishment of this account, the Sec-
24 retary of Homeland Security shall submit a report to the
25 Congress concerning the status of the account, including

1 any balances therein, and recommend any adjustment in
2 the prescribed fee that may be required to ensure that the
3 receipts collected from the fee charged for the succeeding
4 2 years equal, as closely as possible, the cost of providing
5 appointed counsel as required under this Act.

6 **SEC. 23013. ANNUAL REPORT ON PROVISIONAL DENIAL AU-**
7 **THORITY.**

8 Not later than 1 year after the date of the enactment
9 of this Act, and annually thereafter, the Secretary of
10 Homeland Security shall submit to the Congress a report
11 detailing the number of applicants that receive—

12 (1) a provisional denial under this division;

13 (2) a final denial under this division without
14 seeking judicial review;

15 (3) a final denial under this division after seek-
16 ing judicial review; and

17 (4) an approval under this division after seek-
18 ing judicial review.

19 **TITLE IV—DIGNITY AND**
20 **REDEMPTION PROGRAMS**
21 **Subtitle A—Dignity Program**

22 **SEC. 24001. ESTABLISHMENT.**

23 (a) IN GENERAL.—There is established a program,
24 to be known as the “Dignity Program” under this subtitle,
25 which shall provide for deferred action on removal and the

1 provision of employment and travel authorization in the
2 case of eligible applicants, in accordance with the provi-
3 sions of this subtitle.

4 (b) ABOLITION OF 3- AND 10-YEAR BARS.—For pur-
5 poses of this subtitle, section 212(a)(9) of the Immigration
6 and Nationality Act shall not apply for purposes of any
7 person who applies and thereafter participates in the Dig-
8 nity Program.

9 **SEC. 24002. ELIGIBILITY.**

10 The Secretary of Homeland Security shall approve an
11 application to participate in the Dignity Program from an
12 eligible alien subject to the following:

13 (1) APPLICATION.—The applicant shall submit
14 such information that the Secretary determines suf-
15 ficient to prove the following:

16 (A) That the alien has been continually
17 physically present in the United States at least
18 5 years prior to the enactment of this Act.

19 (B) That the alien is not inadmissible
20 under section 212(a) of the Immigration and
21 Nationality Act (except that paragraph (9) shall
22 not apply for purposes of this section).

23 (C) That the alien has included a restitue-
24 tion payment of at least \$1,000, to be deposited
25 in the H-1B Nonimmigrant Petitioner Account,

1 which shall be used to support American work-
2 ers for purposes described in subtitle C of title
3 IV of division B.

4 (2) SUBMISSION OF BIOMETRIC AND BIO-
5 GRAPHIC DATA; BACKGROUND CHECKS.—

6 (A) SUBMISSION OF BIOMETRIC AND BIO-
7 GRAPHIC DATA.—The Secretary may not ap-
8 prove such an application, unless the alien sub-
9 mits biometric and biographic data, in accord-
10 ance with procedures established by the Sec-
11 retary. The Secretary shall provide an alter-
12 native procedure for aliens who are unable to
13 provide such biometric or biographic data be-
14 cause of a physical impairment.

15 (B) BACKGROUND CHECKS.—The Sec-
16 retary shall use biometric, biographic, and other
17 data that the Secretary determines appropriate
18 to conduct security and law enforcement back-
19 ground checks and to determine whether there
20 is any criminal, national security, or other fac-
21 tor that would render the alien ineligible for
22 participation in the Dignity Program in accord-
23 ance with paragraph (3). The application for
24 participation in the Dignity Program may not
25 be approved unless security and law enforce-

1 ment background checks are completed to the
2 satisfaction of the Secretary.

3 (3) GROUNDS OF INELIGIBILITY.—Except as
4 provided in paragraph (2), an alien is ineligible for
5 participation in the Dignity Program if, excluding
6 any offense under State law for which an essential
7 element is the alien’s immigration status, and any
8 minor traffic offense, the alien has been convicted
9 of—

10 (A) any felony offense;

11 (B) two or more misdemeanor offenses (ex-
12 cluding simple possession of cannabis or can-
13 nabis-related paraphernalia, any offense involv-
14 ing cannabis or cannabis-related paraphernalia
15 which is no longer prosecutable in the State in
16 which the conviction was entered, and any of-
17 fense involving civil disobedience without vio-
18 lence) not occurring on the same date, and not
19 arising out of the same act, omission, or scheme
20 of misconduct; or

21 (C) a misdemeanor offense of domestic vio-
22 lence, unless the alien demonstrates that such
23 crime is related to the alien having been—

24 (i) a victim of domestic violence, sex-
25 ual assault, stalking, child abuse or ne-

1 neglect, abuse or neglect in later life, or
2 human trafficking;

3 (ii) battered or subjected to extreme
4 cruelty; or

5 (iii) a victim of criminal activity de-
6 scribed in section 101(a)(15)(U)(iii) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(15)(U)(iii)).

9 (4) WAIVERS FOR CERTAIN MISDEMEANORS.—

10 For humanitarian purposes, family unity, or if oth-
11 erwise in the public interest, the Secretary may
12 waive—

13 (A) the grounds of inadmissibility under
14 subparagraphs (A), (C), and (D) of section
15 212(a)(2) of the Immigration and Nationality
16 Act (8 U.S.C. 1182(a)(2)); and

17 (B) consideration of—

18 (i) one misdemeanor offense if the
19 alien has not been convicted of any offense
20 in the 5-year period preceding the date on
21 which the alien applies for adjustment of
22 status; or

23 (ii) up to two misdemeanor offenses if
24 the alien has not been convicted of any of-
25 fense in the 10-year period preceding the

1 date on which the alien applies for adjust-
2 ment of status.

3 **SEC. 24003. REGISTRATION; DEPARTURE.**

4 (a) REGISTRATION.—Any alien approved to partici-
5 pate in the Dignity Program shall—

6 (1) register with the Secretary of Homeland Se-
7 curity;

8 (2) submit biometric and biographic data to the
9 Secretary; and

10 (3) submit a sworn declaration stipulating to
11 presence in the United States without a lawful immi-
12 gration status, and, as appropriate, unlawful pres-
13 ence, in the United States.

14 (b) DEPARTURE.—Not later than 24 months after
15 the date of the enactment of this Act, any alien present
16 in the United States without lawful status under the immi-
17 gration laws, or not participating in the programs outlined
18 in division B or seeking Certified Agricultural Worker sta-
19 tus under this Act shall apply for the Dignity Program
20 or depart the United States.

21 (c) INTENTIONAL SELF-DEPORTATION.—Any alien
22 that voluntarily departs the United States not later than
23 24 months after the date of the enactment of this Act shall
24 not be subject to the provisions of section 212(a)(9) of
25 the Immigration and Nationality Act with respect to—

1 (1) any removal ordered under section
2 235(b)(1) of such Act or at the end of proceedings
3 under section 240 of such Act initiated upon the
4 alien's arrival in the United States; or

5 (2) any removal ordered under section 240 of
6 such Act,

7 prior to the date of the enactment of this Act.

8 (d) **LIMITATION ON REMOVAL.**—An alien who ap-
9 pears to be prima facie eligible for status under this sub-
10 title during the 24-month period following the date of en-
11 actment of this Act may not be removed or fined based
12 on their immigration status—

13 (1) during such period; and

14 (2) in the case that the alien applies for status
15 under this subtitle, until a final decision establishing
16 ineligibility for such status is rendered.

17 (e) **EXCEPTION.**—This section does not apply in the
18 case of any alien with a valid Notice to Appear in immigra-
19 tion court or with a pending determination on their immi-
20 gration status that is not decided before this date.

21 **SEC. 24004. PROGRAM PARTICIPATION.**

22 (a) **IN GENERAL.**—Any applicant who is approved to
23 participate in the Dignity Program shall make an appoint-
24 ment with USCIS who shall issue an order deferring fur-
25 ther action for a period of 7 years.

1 (b) CONDITIONS.—Each participant in the Dignity
2 Program shall conform to the following:

3 (1) REPORT.—The participant shall biennially
4 report to the Secretary of Homeland Security and
5 provide the following information:

6 (A) Place of residence.

7 (B) Testimony as to good standing within
8 the community.

9 (2) RESTITUTION.—

10 (A) IN GENERAL.—The participant shall
11 pay an additional fee of at least \$1,000 with
12 each report under paragraph (1), until a total
13 amount of \$5,000 has been paid, to be depos-
14 ited in the H-1B Nonimmigrant Petitioner Ac-
15 count, which shall be used to support American
16 workers for purposes described in subtitle C of
17 title IV of division B.

18 (B) LIMITATION IN THE CASE OF MI-
19 NORS.—Subparagraph (A) shall not apply with
20 respect to any participant in the Dignity Pro-
21 gram who is under 18 years of age.

22 (3) LAWFUL CONDUCT.—The participant shall
23 comply with all Federal and State laws.

24 (4) EMPLOYMENT.—The participant shall re-
25 main, for a period of not less than 4 years during

1 their participation in the Dignity Program, employed
2 (including self-employment and serving as a care-
3 giver) or enrolled in a course of study at an institute
4 of higher education, as defined in section 102 of the
5 Higher Education Act of 1965 (20 U.S.C. 1002), or
6 an area career and technical education school, as de-
7 fined in section 3 of the Carl D. Perkins Career and
8 Technical Education Act of 2006 (20 U.S.C. 2302).
9 The Secretary may waive the application of this
10 paragraph in the case of any alien with dependents
11 under the age of 12, any alien the Secretary deter-
12 mines would be unable to reasonably comply by rea-
13 son of a disability or other impediment, or anyone
14 above 65 years of age.

15 (5) TAXES.—The participant shall pay any ap-
16 plicable taxes and satisfy any tax obligations out-
17 standing within 10 years of the date of application
18 approval.

19 (6) SUPPORT DEPENDENTS.—The participant
20 shall support any dependents including by providing
21 food, shelter, clothing, education, and covering basic
22 medical needs.

23 (7) MEDICAL COSTS.—

24 (A) IN GENERAL.—The participant shall
25 be enrolled under qualifying health coverage.

1 (B) DEFINITION.—For purposes of this
2 paragraph, the term “qualifying health cov-
3 erage” means, with respect to the participant,
4 the higher of the following levels of coverage ap-
5 plicable to such alien:

6 (i) At a minimum, catastrophic health
7 insurance coverage that provides coverage
8 of such individual with respect to at least
9 the State of employment and State of resi-
10 dence of the alien.

11 (ii) In the case of an alien whose
12 State of residence or State of employment
13 requires such an alien to maintain cov-
14 erage under health insurance, such health
15 insurance.

16 (8) PUBLIC BENEFITS.—Beginning on the date
17 of participation in the Dignity Program, the partici-
18 pant shall not avail himself or herself of any Federal
19 means-tested benefits or entitlement programs. For
20 purposes of this paragraph, any benefits received by
21 a child or dependent that is a United States citizen
22 living in the same household shall not be taken into
23 account.

24 (9) LEVY.—In addition to other taxes, there is
25 hereby imposed on the income of every participant a

1 tax equal to 1.5 percent of the adjusted gross in-
2 come (as defined in section 3121(a) of the Internal
3 Revenue Code of 1986) received by the individual
4 with respect to employment (as defined in section
5 3121(b) the Internal Revenue Code of 1986). The
6 participant shall comply with the requirements of
7 section 9512 of the Internal Revenue Code of 1986.
8 Any tax collected under this paragraph shall be de-
9 posited in the Immigration Infrastructure Fund es-
10 tablished in section 1213.

11 (10) EXEMPTION FROM CERTAIN PAYROLL
12 TAXES.—A participant shall not be liable for any tax
13 under section 3101 or 3102 of the Internal Revenue
14 Code of 1986.

15 (c) AUTHORIZING PARTICIPANTS APPROVED TO PAR-
16 TICIPATE IN THE DIGNITY PROGRAM TO ENLIST IN THE
17 ARMED FORCES.—

18 (1) WAIVER.—Under this provision, for any in-
19 dividual in the Dignity program that enlists in the
20 armed forces, the conditions outlined in subsection
21 (b) shall be waived during their service.

22 (2) COMPLETION OF TERM OF ENLISTMENT.—
23 Upon completion of a term of enlistment, the re-
24 quirements of the Dignity Program shall be satisfied
25 for that individual, and that individual shall be eligi-

1 ble to adjust to lawful permanent resident status
2 through the armed forces.

3 (d) VIOLATIONS.—If a participant violates a condi-
4 tion under subsection (b), the Secretary may at the Sec-
5 retary’s discretion, waive enforcement of minor violations
6 including late fees, take extenuating circumstances into ef-
7 fect, or consider factors of undue hardship, but in all other
8 cases, the Secretary shall initiate removal proceedings. In
9 such proceedings, the immigration judge may make a de-
10 termination as to whether to order removal or to issue an
11 order modifying the conditions of that participant’s par-
12 ticipation in the Dignity Program.

13 **SEC. 24005. COMPLETION.**

14 (a) IN GENERAL.—Upon satisfying the conditions set
15 forth in subsection (b) and thereby successfully completing
16 the Dignity Program, the participant may choose—

17 (1) to receive Dignity status under this section;

18 or

19 (2) to register for the Redemption Program
20 under subtitle B.

21 (b) COMPLETION.—The conditions set forth in this
22 subsection for successful completion of the Dignity Pro-
23 gram are as follows:

24 (1) Compliance with all requirements of sub-
25 section (b)(1).

1 (2) Compliance with all requirements of sub-
2 section (b)(2).

3 (3) Compliance with the requirement of sub-
4 section (b)(3) for the entire period of the participa-
5 tion in the Dignity Program.

6 (c) DIGNITY STATUS.—The status under this sec-
7 tion—

8 (1) shall be valid for a period of 5 years;

9 (2) may be renewed any number of times; and

10 (3) shall provide the alien with—

11 (A) lawful status as a nonimmigrant;

12 (B) authorization for employment; and

13 (C) the ability to reenter the United States
14 any number of times.

15 (d) REDEMPTION PROGRAM.—Upon completion of
16 the requirements of the Dignity Program, an applicant
17 may choose to register for the Redemption Program under
18 subtitle B.

19 **Subtitle B—Redemption Program**

20 **SEC. 24101. ESTABLISHMENT.**

21 (a) ESTABLISHMENT.—There is established a pro-
22 gram, to be known as the “Redemption Program”, under
23 which eligible applicants may acquire conditional redemp-
24 tion status, and shall be authorized to apply for lawful
25 permanent residency under the immigration laws in ac-

1 cordance with section 24103. Such status shall be valid
2 for a period of 5 years, and may be renewed any number
3 of times.

4 (b) ELIGIBILITY.—To be eligible to apply under the
5 Redemption Program, an applicant shall be an alien who
6 has successfully completed the Dignity Program under
7 subtitle A.

8 (c) STATUS.—In the case of an alien who is an eligi-
9 ble applicant granted conditional redemption status under
10 this section, the alien—

11 (1) may not be removed or return the alien to
12 the alien's country of nationality or, in the case of
13 a person having no nationality, the country of the
14 alien's last habitual residence;

15 (2) shall be authorized to engage in employ-
16 ment in the United States and be provided with ap-
17 propriate endorsement of that authorization; and

18 (3) may be allowed to travel abroad.

19 (d) CONDITIONALITY.—Conditional redemption sta-
20 tus does not convey a right to remain permanently in the
21 United States, and may be terminated if it is determined
22 that the alien has violated any condition set forth under
23 section 24102.

1 **SEC. 24102. CONDITIONS.**

2 (a) IN GENERAL.—An alien receiving conditional sta-
3 tus under section 24101 shall comply with the following:

4 (1) The alien shall report to the Secretary of
5 Homeland Security biennially.

6 (2) The alien shall maintain an accurate record
7 with the Secretary of the following:

8 (A) The alien's place of residence.

9 (B) Testimony regarding good standing
10 within the community.

11 (3) The alien shall complete either of the fol-
12 lowing:

13 (A) Payment of additional fees of at least
14 \$2,000 upon each report under paragraph (1),
15 until a total of \$5,000 has been paid; or

16 (B) Certification that the alien has com-
17 pleted such community service requirement as
18 the Secretary may establish, consistent with the
19 following:

20 (i) Not less than 200 hours of com-
21 munity service shall be required.

22 (ii) The community service may be
23 completed with the National Service Corps
24 or with other, local community service pro-
25 viders, as the Secretary determines appro-
26 priate.

1 (4) The alien has learned English.

2 (5) The alien has learned United States civics.

3 (b) WAIVER.—The Secretary of Homeland Security
4 may waive paragraph (4) or (5) of subsection (a) in the
5 case of an alien who is 65 years of age or older.

6 **SEC. 24103. COMPLETION AND REMOVAL OF CONDITIONAL**
7 **STATUS.**

8 If an alien maintains and completes the requirements
9 of this section, after a period of 4 years beginning on the
10 date that the alien's application for participation in the
11 Redemption Program is approved, and subject to sections
12 1181 and 1515 of Division A of this Act, the Secretary
13 may adjust the status of the alien to that of a lawful per-
14 manent resident, except that the alien's status granted
15 under section 24101 may not be extended unless the alien
16 demonstrates that the alien satisfies the requirements
17 under section 312(a) of the Immigration and Nationality
18 Act (8 U.S.C. 1423(a)).

19 **Subtitle C—Contribution to**
20 **American Workers**

21 **SEC. 24200. PURPOSE.**

22 This subtitle shall direct restitution payments from
23 the Dignity and Redemption programs to be disbursed to
24 American workers through promoting apprenticeships and
25 other work-based learning programs for small and me-

1 dium-sized businesses within in-demand industry sectors,
2 through the establishment and support of industry or sec-
3 tor partnerships.

4 **SEC. 24201. AVAILABILITY OF FUNDS.**

5 From funds paid by restitution under title IV of divi-
6 sion B of the Dignity for Immigrants while Guarding our
7 Nation to Ignite and Deliver the American Dream Act and
8 available under section 286(s)(2) of the Immigration and
9 Nationality Act (8 U.S.C. 1356(s)(2)), the Secretary shall
10 carry out this Act.

11 **SEC. 24202. CONFORMING AMENDMENTS.**

12 (a) AMERICAN COMPETITIVENESS AND WORKFORCE
13 IMPROVEMENT ACT OF 1998.—Section 414(c) of the
14 American Competitiveness and Workforce Improvement
15 Act of 1998 (29 U.S.C. 2916a) is repealed.

16 (b) IMMIGRATION AND NATIONALITY ACT.—Section
17 286(s)(2) of the Immigration and Nationality Act (8
18 U.S.C. 1356(s)(2)) is amended to read as follows:

19 “(2) USE OF FEES FOR WORK-BASED LEARNING
20 PROGRAMS.—90 percent of amounts deposited into
21 the H–1B Nonimmigrant Petitioner Account pursu-
22 ant to the Dignity for Immigrants while Guarding
23 our Nation to Ignite and Deliver the American
24 Dream Act shall remain available to the Secretary of
25 Labor until expended to carry out the Dignity for

1 Immigrants while Guarding our Nation to Ignite
2 and Deliver the American Dream Act.”.

3 **PART 1—PROMOTING APPRENTICESHIPS**
4 **THROUGH REGIONAL TRAINING NETWORKS**

5 **SEC. 24301. DEFINITIONS.**

6 In this Act:

7 (1) **ELIGIBLE PARTNERSHIP.**—The term “eligi-
8 ble partnership” means an industry or sector part-
9 nership as defined in section 3 of the Workforce In-
10 novation and Opportunity Act (29 U.S.C. 3102) that
11 submits and obtains approval of an application con-
12 sistent with section 5(c).

13 (2) **IN-DEMAND INDUSTRY SECTOR.**—The term
14 “in-demand industry sector” means a sector de-
15 scribed in subparagraphs (A)(i) and (B) of section
16 3(23) of the Workforce Innovation and Opportunity
17 Act (29 U.S.C. 3102(23)).

18 (3) **LOCAL OR REGIONAL.**—The term “local or
19 regional”, used with respect to an entity, means that
20 the entity provides services in, respectively, a local
21 area or region.

22 (4) **WORKFORCE TERMS.**—The terms “Gov-
23 ernor”, “individual with a barrier to employment”,
24 “industry or sector partnership”, “local area”, “local
25 board”, “State board”, “outlying area”, “recognized

1 postsecondary credential”, “region”, “State”, and
2 “supportive services”, used with respect to activities
3 supported under this Act, have the meanings given
4 the terms in section 3 of the Workforce Innovation
5 and Opportunity Act (29 U.S.C. 3102).

6 (5) SECRETARY.—The term “Secretary” means
7 the Secretary of Labor.

8 **SEC. 24302. ALLOTMENTS TO STATES.**

9 (a) RESERVATION.—Of the amounts available for this
10 Act under section 4, the Secretary may reserve—

11 (1) not more than 5 percent of those amounts
12 for the costs of technical assistance and Federal ad-
13 ministration of this Act;

14 (2) not more than 2 percent of those amounts
15 for the costs of evaluations conducted under section
16 8(b); and

17 (3) not more than $\frac{1}{4}$ of 1 percent of such
18 amounts to provide assistance to the outlying areas.

19 (b) ALLOTMENTS.—

20 (1) IN GENERAL.—Of the amounts available for
21 this Act under section 4 that remain after the Sec-
22 retary makes the reservations under subsection (a),
23 the Secretary shall, for the purpose of supporting
24 (which may include assistance in establishing ex-
25 panded) local or regional eligible partnerships to

1 support work-based learning programs under this
2 Act, make allotments to eligible States in accordance
3 with clauses (ii) through (v) of section 132(b)(1)(B)
4 of the Workforce Innovation and Opportunity Act
5 (29 U.S.C. 3162(b)(1)(C)), subject to paragraph
6 (2).

7 (2) APPLICATION.—For purposes of applying
8 the clauses described in paragraph (1), under para-
9 graph (1), the Secretary—

10 (A) shall not apply subclauses (I) and (III)
11 of clause (iv) with respect to the first fiscal year
12 after the date of enactment of this Act;

13 (B) shall apply clause (iv)(II) by sub-
14 stituting “0.5 percent of the remaining amounts
15 described in paragraph (1)” for the total de-
16 scribed in that clause;

17 (C) shall not apply clause (iv)(IV);

18 (D) shall apply clause (v)(II) by sub-
19 stituting the term “allotment percentage”, used
20 with respect to the second full fiscal year after
21 the date of enactment of this Act, or a subse-
22 quent fiscal year, means a percentage of the re-
23 maining amounts described in paragraph (1)
24 that is received through an allotment made

1 under this subsection for the fiscal year for the
2 two sentences in that clause; and

3 (E) shall apply clause (v)(III) by sub-
4 stituting “a work-based learning program car-
5 ried out under this Act” for “a program of
6 workforce investment activities carried out
7 under this subtitle”.

8 (3) USE OF UNALLOTTED FUNDS.—If a State
9 fails to meet the requirements for an allotment
10 under this subsection, the Secretary may allot funds
11 that are not allotted under paragraphs (1) and (2)
12 to eligible States under a formula based on the for-
13 mula specified in section 132(c) of the Workforce In-
14 novation and Opportunity Act (29 U.S.C. 3173(c)).

15 (4) DEFINITION.—In this subsection, the term
16 “eligible State” means a State that meets the re-
17 quirements of section 102 or 103 of the Workforce
18 Innovation and Opportunity Act (29 U.S.C. 3112,
19 3113) and subsection (c).

20 (c) STATE ELIGIBILITY.—To be eligible to receive an
21 allotment under subsection (b), a State, in consultation
22 with State boards and local boards, shall submit an appli-
23 cation to the Secretary, at such time, in such manner, and
24 containing a description of the activities to be carried out

1 with the grant funds. At a minimum, the application shall
2 include information on—

3 (1) the local or regional industry or sector part-
4 nerships that will be supported, including the lead
5 partners for the partnerships, and how the partner-
6 ships will work to engage small and medium-sized
7 businesses, as applicable, in the activities of the
8 partnerships;

9 (2) the in-demand industry sectors that will be
10 served, including how such industry sectors were
11 identified, and how the activities of the partnerships
12 will align with State, regional, and local plans as re-
13 quired under title I of the Workforce Innovation and
14 Opportunity Act (29 U.S.C. 3111 et seq.);

15 (3) the apprenticeship programs or other work-
16 based learning programs to be supported through the
17 partnerships;

18 (4) the populations that will receive services, in-
19 cluding individuals with barriers to employment and
20 populations that were historically underrepresented
21 in the industry sectors to be served through the
22 partnerships;

23 (5) the services, including business engagement,
24 classroom instruction, and support services (includ-
25 ing at least 6 months of post-employment support

1 services), that will be supported through the grant
2 funds;

3 (6) the recognized postsecondary credentials
4 that workers will obtain through participation in the
5 program and the quality of the program that leads
6 to the credentials;

7 (7) levels of performance to be achieved on the
8 performance indicators described in section 8, to
9 measure progress towards expanding work-based
10 learning programs;

11 (8) how local or regional partnerships will lever-
12 age additional resources, including funding provided
13 under title I of the Workforce Innovation and Op-
14 portunity Act (29 U.S.C. 3111 et seq.) and non-
15 Federal resources, to support the activities carried
16 out under this Act; and

17 (9) such other subjects as the Secretary may
18 require.

19 (d) REVIEW OF APPLICATIONS.—The Secretary shall
20 review applications submitted under subsection (c) in con-
21 sultation with the Secretary of Education and the Sec-
22 retary of Health and Human Services.

23 **SEC. 24303. GRANTS TO PARTNERSHIPS.**

24 (a) GRANTS.—

1 (1) IN GENERAL.—The Governor of a State
2 that receives an allotment under section 5 shall use
3 the funds made available through the allotment and
4 not reserved under subsection (d) to award grants to
5 eligible partnerships. The Governor shall award the
6 grants for the purpose of assisting (which may in-
7 clude establishing or expanding) local or regional in-
8 dustry or sector partnerships that are identified in
9 the application submitted under section 5(c), to
10 carry out activities described in section 7.

11 (2) PERIOD OF GRANT.—A State may make a
12 grant under this section for a period of 3 years.

13 (3) AVAILABILITY OF FUNDS.—The Governor of
14 a State that receives an allotment under section 5
15 for a fiscal year may use the funds made available
16 through the allotment during that year or the 2 sub-
17 sequent fiscal years.

18 (b) ELIGIBILITY.—To be eligible to receive a grant
19 under this section, an industry or sector partnership de-
20 scribed in subsection (a)(1) shall—

21 (1) submit an application to the State at such
22 time, in such manner, and containing such informa-
23 tion as the State may require; and

1 (2) designate a partner in the industry or sector
2 partnership, to serve as the fiscal agent for purposes
3 of the grant.

4 (c) AWARDS OF GRANTS.—

5 (1) PARTICIPATION IN MULTIPLE ELIGIBLE
6 PARTNERSHIPS.—Subject to paragraph (2), a State
7 may award grants under this section in a way that
8 results in an entity being represented in more than
9 one partnership that receives such a grant.

10 (2) GEOGRAPHIC DIVERSITY.—In making the
11 grants, a State shall ensure that there is geographic
12 diversity in the areas in which activities will be car-
13 ried out under the grants.

14 (d) ADMINISTRATION.—The State may reserve not
15 more than 5 percent of the amount of an allotment under
16 section 5 for the administration of the grants awarded
17 under this section.

18 **SEC. 24304. USE OF FUNDS.**

19 (a) IN GENERAL.—An eligible partnership that re-
20 ceives a grant under section 6 shall use the grant funds
21 to support apprenticeships or other work-based learning
22 programs. The eligible partnership shall use the grant
23 funds to support the activities described in subsections (b)
24 and (c) and such other strategies as may be necessary to
25 support the development and implementation of work-

1 based learning programs, and participant retention in and
2 completion of those programs. The partnership may use
3 the grant funds to establish or expand eligible partner-
4 ships.

5 (b) BUSINESS ENGAGEMENT.—The eligible partner-
6 ship shall use grant funds to provide services to engage
7 businesses in work-based learning programs, which may
8 include assisting a small or medium-sized business with—

9 (1) the navigation of the registration process
10 for a sponsor of an apprenticeship program;

11 (2) the connection of the business with an edu-
12 cation provider to develop classroom instruction to
13 complement on-the-job learning;

14 (3) the development of a curriculum for a work-
15 based learning program;

16 (4) the employment of workers in a work-based
17 learning program for a transitional period before the
18 business hires an individual for continuing employ-
19 ment;

20 (5) the provision of training to managers and
21 front-line workers to serve as trainers or mentors to
22 workers in the work-based learning program;

23 (6) the provision of career awareness activities;
24 and

1 (7) the recruitment of individuals to participate
2 in a work-based learning program from individuals
3 receiving additional workforce and human services,
4 including—

5 (A) workers in programs under the Work-
6 force Innovation and Opportunity Act (29
7 U.S.C. 3101 et seq.);

8 (B) recipients of assistance through the
9 supplemental nutrition assistance program es-
10 tablished under the Food and Nutrition Act of
11 2008 (7 U.S.C. 2011 et seq.); and

12 (C) recipients of assistance through the
13 program of block grants to States for tem-
14 porary assistance for needy families established
15 under part A of title IV of the Social Security
16 Act (42 U.S.C. 601 et seq.).

17 (c) SUPPORT SERVICES FOR WORKERS.—

18 (1) IN GENERAL.—The eligible partnership
19 shall use grant funds to provide support services for
20 workers to assure their success in work-based learn-
21 ing programs, which may include—

22 (A) connection of individuals with adult
23 basic education during pre-work-based learning
24 or training, and during the period of employ-
25 ment;

1 (B) connection of individuals with pre-
2 work-based learning or training, including
3 through a pre-apprenticeship program;

4 (C) provision of additional mentorship and
5 retention supports for individuals pre-work-
6 based learning or training, and during the pe-
7 riod of employment;

8 (D) provision of tools, work attire, and
9 other required items necessary to start employ-
10 ment pre-work-based learning or training, and
11 during the period of employment; and

12 (E) provision of transportation, child care
13 services, or other support services pre-work-
14 based learning or training, and during the pe-
15 riod of employment.

16 (2) LENGTH OF SERVICES.—Each eligible part-
17 nership shall provide support services for workers for
18 not less than 12 months after the date of placement
19 of an individual in a work-based learning program.
20 That 12-month period shall include a period of pre-
21 work-based learning or training, a transitional pe-
22 riod of employment as described in subsection
23 (b)(4), and a period of continuing employment.

1 **SEC. 24305. PERFORMANCE AND ACCOUNTABILITY.**

2 (a) LOCAL REPORTS.—Not later than 1 year after
3 receiving a grant under section 6, and annually thereafter,
4 each eligible partnership in a State shall conduct an eval-
5 uation and submit to the State a local report containing
6 information on—

7 (1) levels of performance achieved by the eligi-
8 ble partnership with respect to the performance indi-
9 cators under section 116(b)(2)(A) of the Workforce
10 Innovation and Opportunity Act (29 U.S.C.
11 3141(b)(2)(A))—

12 (A) for all workers in the work-based
13 learning program involved; and

14 (B) for all such workers, disaggregated by
15 each population specified in section 3(24) of the
16 Workforce Innovation and Opportunity Act (29
17 U.S.C. 3102(24)) and by race, ethnicity, sex,
18 and age; and

19 (2) levels of performance achieved by the eligi-
20 ble partnership with respect to the performance indi-
21 cators under that section 116(b)(2)(A)—

22 (A) for individuals with barriers to employ-
23 ment in the work-based learning program in-
24 volved; and

25 (B) for all such individuals, disaggregated
26 by each population specified in section 3(24) of

1 the Workforce Innovation and Opportunity Act
2 and by race, ethnicity, sex, and age.

3 (b) STATE REPORTS.—Not later than 24 months
4 after receiving initial local reports under subsection (a)
5 (but in no case less than 18 months after the cor-
6 responding grants are awarded) and annually thereafter,
7 the State shall conduct an evaluation and submit a report
8 to the Secretary containing—

9 (1) the information provided by the eligible
10 partnerships through the local reports; and

11 (2) the State level of performance, aggregated
12 across all eligible partnerships, with respect to the
13 performance indicators described in subsection (a).

14 **PART 2—HIGH-DEMAND CAREERS**

15 **SEC. 24401. GRANTS FOR ACCESS TO HIGH-DEMAND CA-** 16 **REERS.**

17 (a) PURPOSE.—The purpose of this section is to ex-
18 pand student access to, and participation in, new industry-
19 led earn-and-learn programs leading to high-wage, high-
20 skill, and high-demand careers.

21 (b) AUTHORIZATION OF APPRENTICESHIP GRANT
22 PROGRAM.—

23 (1) IN GENERAL.—From the amounts provided
24 under this title, the Secretary shall award grants, on

1 a competitive basis, to eligible partnerships for the
2 purpose described in subsection (a).

3 (2) DURATION.—The Secretary shall award
4 grants under this section for a period of—

5 (A) not less than 1 year; and

6 (B) not more than 4 years.

7 (3) LIMITATIONS.—

8 (A) NUMBER OF AWARDS.—An eligible
9 partnership or member of such partnership may
10 not be awarded more than one grant under this
11 section.

12 (B) ADMINISTRATION COSTS.—An eligible
13 partnership awarded a grant under this section
14 may not use more than 5 percent of the grant
15 funds to pay administrative costs associated
16 with activities funded by the grant.

17 (c) MATCHING FUNDS.—To receive a grant under
18 this section, an eligible partnership shall, through cash or
19 in-kind contributions, provide matching funds from non-
20 Federal sources in an amount equal to or greater than
21 50 percent of the amount of such grant.

22 (d) APPLICATIONS.—

23 (1) IN GENERAL.—To receive a grant under
24 this section, an eligible partnership shall submit to

1 the Secretary at such a time as the Secretary may
2 require, an application that—

3 (A) identifies and designates the business
4 or institution of higher education responsible
5 for the administration and supervision of the
6 earn-and-learn program for which such grant
7 funds would be used;

8 (B) identifies the businesses and institu-
9 tions of higher education that comprise the eli-
10 gible partnership;

11 (C) identifies the source and amount of the
12 matching funds required under subsection (c);

13 (D) identifies the number of students who
14 will participate and complete the relevant earn-
15 and-learn program within 1 year of the expira-
16 tion of the grant;

17 (E) identifies the amount of time, not to
18 exceed 2 years, required for students to com-
19 plete the program;

20 (F) identifies the relevant recognized post-
21 secondary credential to be awarded to students
22 who complete the program;

23 (G) identifies the anticipated earnings of
24 students—

1 (i) 1 year after program completion;

2 and

3 (ii) 3 years after program completion;

4 (H) describes the specific project for which
5 the application is submitted, including a sum-
6 mary of the relevant classroom and paid struc-
7 tured on-the-job training students will receive;

8 (I) describes how the eligible partnership
9 will finance the program after the end of the
10 grant period;

11 (J) describes how the eligible partnership
12 will support the collection of information and
13 data for purposes of the program evaluation re-
14 quired under subsection (e); and

15 (K) describes the alignment of the pro-
16 gram with State identified in-demand industry
17 sectors.

18 (e) EVALUATION.—

19 (1) IN GENERAL.—From the amounts provided
20 under this title, the Secretary shall provide for the
21 independent evaluation of the grant program estab-
22 lished under this section that includes the following:

23 (A) The number of eligible individuals who
24 participated in programs assisted under this
25 section.

1 (B) The percentage of program partici-
2 pants who are in unsubsidized employment dur-
3 ing the second quarter after exit from the pro-
4 gram.

5 (C) The percentage of program partici-
6 pants who are in unsubsidized employment dur-
7 ing the fourth quarter after exit from the pro-
8 gram.

9 (D) The median earnings of program par-
10 ticipants who are in unsubsidized employment
11 during the second quarter after exit from the
12 program.

13 (E) The percentage of program partici-
14 pants who obtain a recognized postsecondary
15 credential during participation in the program.

16 (2) PUBLICATION.—The evaluation required by
17 this subsection shall be made publicly available on
18 the website of the Department.

19 (f) DEFINITIONS.—In this section:

20 (1) EARN-AND-LEARN PROGRAM.—The term
21 “earn-and-learn program” means an education pro-
22 gram, including an apprenticeship program, that
23 provides students with structured, sustained, and
24 paid on-the-job training and accompanying, for cred-
25 it, classroom instruction that—

1 (A) is for a period of between 3 months
2 and 2 years; and

3 (B) leads to, on completion of the pro-
4 gram, a recognized postsecondary credential.

5 (2) ELIGIBLE PARTNERSHIP.—The term “eligi-
6 ble partnership” shall mean a consortium that in-
7 cludes—

8 (A) 1 or more businesses; and

9 (B) 1 or more institutions of higher edu-
10 cation.

11 (3) IN-DEMAND INDUSTRY SECTOR OR OCCUPA-
12 TION.—The term “in-demand industry sector or oc-
13 cupation” has the meaning given the term in section
14 3 of the Workforce Innovation and Opportunity Act
15 (29 U.S.C. 3102).

16 (4) ON-THE-JOB TRAINING.—The term “on-the-
17 job training” has the meaning given the term in sec-
18 tion 3 of the Workforce Innovation and Opportunity
19 Act (29 U.S.C. 3102).

20 (5) RECOGNIZED POSTSECONDARY CREDEN-
21 TIAL.—The term “recognized postsecondary creden-
22 tial” has the meaning given the term in section 3 of
23 the Workforce Innovation and Opportunity Act (29
24 U.S.C. 3102).

1 **DIVISION C—IMPROVING SEA-**
2 **SONAL GUEST WORKER OP-**
3 **PORTUNITIES**

4 **SEC. 31001. SHORT TITLE.**

5 This division may be cited as the “H–2B Returning
6 Worker Exception Act”.

7 **SEC. 31002. DEFINITIONS.**

8 For purposes of this division:

9 (1) The term “H–2B”, when used with respect
10 to a worker or other individual, refers an alien ad-
11 mitted or provided status as a nonimmigrant de-
12 scribed in section 101(a)(15)H(ii)(b) of the Immi-
13 gration and Nationality Act (8 U.S.C.
14 1101(a)(15)(H)(ii)(b)). Such term, when used with
15 respect to a petition, procedure, process, program, or
16 visa, refers to a petition, procedure, process, pro-
17 gram, or visa related to admission or provision of
18 status under such section.

19 (2) The term “job order” means the document
20 containing the material terms and conditions of em-
21 ployment, including obligations and assurances re-
22 quired under this division or any other law.

23 (3) The term “United States worker” means
24 any employee who is—

1 (A) a national of the United States (as de-
2 fined in section 101(a)(22) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)(22))); or
4 (B) an alien lawfully admitted for perma-
5 nent residence, is admitted as a refugee under
6 section 207 of such Act (8 U.S.C. 1157), is
7 granted asylum under section 208 of such Act
8 (8 U.S.C. 1158), or is an immigrant otherwise
9 authorized by the immigration laws (as defined
10 in section 101(a)(17) of such Act (8 U.S.C.
11 1101(a)(17))) or the Secretary of Homeland
12 Security to be employed.

13 **SEC. 31003. H-2B CAP RELIEF.**

14 (a) H-2B NUMERICAL LIMITATIONS.—Section
15 214(g)(9)(A) of the Immigration and Nationality Act (8
16 U.S.C. 1184(g)(9)(A)) is amended—

17 (1) by striking “fiscal year 2013, 2014, or
18 2015” and inserting “1 of the 3 preceding fiscal
19 years”; and

20 (2) by striking “fiscal year 2016” and inserting
21 “a fiscal year”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect during the fiscal year in
24 which it is enacted.

1 **SEC. 31004. INCREASED SANCTIONS FOR WILLFUL MIS-**
2 **REPRESENTATION OR FAILURE TO MEET THE**
3 **REQUIREMENTS FOR PETITIONING FOR AN**
4 **H-2B WORKER.**

5 Section 214 of the Immigration and Nationality Act
6 (8 U.S.C. 1184) is amended—

7 (1) in subsection (c)(13)(B), by striking
8 “\$150” and inserting “\$350”; and

9 (2) in subsection (c)(14)(A)(i), by striking
10 “may, in addition to any other remedy authorized by
11 law, impose such administrative remedies (including
12 civil monetary penalties in an amount not to exceed
13 \$10,000 per violation)” and inserting “shall impose
14 civil monetary penalties in an amount of not less
15 than \$1,000 but not to exceed \$10,000 per violation,
16 in addition to any other remedy authorized by law,
17 and may impose such other administrative rem-
18 edies”.

19 **SEC. 31005. REDUCTION OF PAPERWORK BURDEN.**

20 (a) **STREAMLINED H-2B PLATFORM.—**

21 (1) **IN GENERAL.—**Not later than 12 months
22 after the date of the enactment of this division, the
23 Secretary of Homeland Security, in consultation
24 with the Secretary of Labor, the Secretary of State,
25 and the Administrator of the United States Digital
26 Service, shall ensure the establishment of an elec-

1 tronic platform through which employers may sub-
2 mit and request approval of an H-2B petition. Such
3 platform shall—

4 (A) serve as a single point of access for
5 employers to input all information and sup-
6 porting documentation required for obtaining
7 labor certification from the Secretary of Labor
8 and the adjudication of the petition by the Sec-
9 retary of Homeland Security;

10 (B) serve as a single point of access for the
11 Secretary of Homeland Security, the Secretary
12 of Labor, the Secretary of State, and State
13 workforce agencies concurrently to perform
14 their respective review and adjudicatory respon-
15 sibilities in the petition process;

16 (C) facilitate communication between em-
17 ployers and agency adjudicators, including by
18 allowing employers to—

19 (i) receive and respond to notices of
20 deficiency and requests for information;

21 (ii) receive notices of approval and de-
22 nial; and

23 (iii) request reconsideration or appeal
24 of agency decisions; and

1 (D) provide information to the Secretary of
2 State and the Secretary of Homeland Security
3 necessary for the efficient and secure processing
4 of H–2B visas and applications for admission.

5 (2) OBJECTIVES.—In developing the platform
6 described in paragraph (1), the Secretary of Home-
7 land Security, in consultation with the Secretary of
8 Labor, the Secretary of State, and the Adminis-
9 trator of the United States Digital Service, shall
10 make an effort to streamline and improve the H–2B
11 process, including by—

12 (A) eliminating the need for employers to
13 submit duplicate information and documenta-
14 tion to multiple agencies;

15 (B) reducing common petition errors, and
16 otherwise improving and expediting the proc-
17 essing of H–2B petitions;

18 (C) ensuring compliance with H–2B pro-
19 gram requirements and the protection of the
20 wages and working conditions of workers; and

21 (D) eliminating unnecessary government
22 waste.

23 (3) ENHANCEMENT OF EXISTING PLATFORM.—
24 If the Secretary of Homeland Security, the Sec-
25 retary of Labor, the Secretary of State, or the State

1 workforce agencies already have an electronic plat-
2 form with respect to the H-2B process on the date
3 of the enactment of this division, they shall enhance
4 it as necessary so as to ensure that adjudication of
5 an H-2B petition may be conducted electronically as
6 specified in this section.

7 (b) **ONLINE JOB REGISTRY.**—The Secretary of Labor
8 shall maintain a publicly accessible online job registry and
9 database of all job orders submitted by H-2B employers.
10 The registry and database shall—

11 (1) be searchable using relevant criteria, includ-
12 ing the types of jobs needed to be filled, the dates
13 and locations of need, and the employers named in
14 the job order;

15 (2) provide an interface for workers in English,
16 Spanish, and any other language that the Secretary
17 of Labor determines to be appropriate; and

18 (3) provide for public access of job order certifi-
19 cations.

20 **SEC. 31006. WORKPLACE SAFETY.**

21 (a) **WORKSITE SAFETY AND COMPLIANCE PLAN.**—
22 If the employer is seeking to employ an H-2B worker pur-
23 suant to this division and the Immigration and Nationality
24 Act (8 U.S.C. 1101 et seq.), the employer shall maintain
25 an effective worksite safety and compliance plan to ensure

1 safety and reduce workplace illnesses, injuries and fatali-
2 ties. Such plan shall—

3 (1) be in writing in English and, to the extent
4 necessary, any language common to a significant
5 portion of the workers if they are not fluent in
6 English; and

7 (2) be posted at a conspicuous location at the
8 worksite and provided to employees prior to the com-
9 mencement of labor or services.

10 (b) CONTENTS OF PLAN.—The Secretary of Labor
11 shall establish by regulation the minimum requirements
12 for the plan described in subsection (a). Such plan shall
13 include measures to—

14 (1) protect against sexual harassment and vio-
15 lence, resolve complaints involving harassment or vi-
16 olence, and protect against retaliation against work-
17 ers reporting harassment or violence; and

18 (2) contain other provisions necessary for en-
19 suring workplace safety.

20 **SEC. 31007. FOREIGN LABOR RECRUITING; PROHIBITION**
21 **ON FEES.**

22 (a) FOREIGN LABOR RECRUITING.—If an employer
23 has engaged any foreign labor contractor or recruiter (or
24 any agent of such a foreign labor contractor or recruiter)
25 in the recruitment of H-2B workers, the employer shall

1 disclose the identity and geographic location of such per-
2 son or entity to the Secretary of Labor in accordance with
3 the regulations of the Secretary.

4 (b) PROHIBITION AGAINST EMPLOYEES PAYING
5 FEES.—Neither the employer nor its agents shall seek or
6 receive payment of any kind from any worker for any ac-
7 tivity related to the H–2B petition process, including pay-
8 ment of the employer’s attorneys’ fees, application fees,
9 or recruitment costs. An employer and its agents may re-
10 ceive reimbursement for costs that are the responsibility,
11 and primarily for the benefit, of the worker, such as gov-
12 ernment-required passport fees.

13 (c) THIRD PARTY CONTRACTS.—The employer shall
14 contractually forbid any foreign labor contractor or re-
15 cruter (or any agent of a foreign labor contractor or re-
16 cruter) who the employer engages, either directly or indi-
17 rectly, in the recruitment of H–2B workers to seek or re-
18 ceive payments or other compensation from prospective
19 employees. Upon learning that a foreign labor contractor
20 or recruiter has collected such payments, the employer
21 shall terminate any contracts with the foreign labor con-
22 tractor or recruiter.

23 **SEC. 31008. PROGRAM INTEGRITY MEASURES.**

24 (a) ENFORCEMENT AUTHORITY.—With respect to
25 the H–2B program, the Secretary of Labor is authorized

1 to take such actions against employers, including imposing
2 appropriate penalties and seeking monetary and injunctive
3 relief and specific performance of contractual obligations,
4 as may be necessary to ensure compliance with—

5 (1) the requirements of this division and the
6 Immigration and Nationality Act (8 U.S.C. 1101 et
7 seq.); and

8 (2) the applicable terms and conditions of em-
9 ployment.

10 (b) COMPLAINT PROCESS.—

11 (1) PROCESS.—With respect to the H-2B pro-
12 gram, the Secretary of Labor shall establish a proc-
13 ess for the receipt, investigation, and disposition of
14 complaints alleging failure of an employer to comply
15 with—

16 (A) the requirements of this division and
17 the Immigration and Nationality Act (8 U.S.C.
18 1101 et seq.); and

19 (B) the applicable terms and conditions of
20 employment.

21 (2) FILING.—Any aggrieved person or organiza-
22 tion, including a bargaining representative, may file
23 a complaint referred to in paragraph (1) not later
24 than 2 years after the date of the conduct that is
25 the subject of the complaint.

1 (3) COMPLAINT NOT EXCLUSIVE.—A complaint
2 filed under this subsection is not an exclusive rem-
3 edy and the filing of such a complaint does not
4 waive any rights or remedies of the aggrieved party
5 under this law or other laws.

6 (4) DECISION AND REMEDIES.—If the Sec-
7 retary of Labor finds, after notice and opportunity
8 for a hearing, that the employer failed to comply
9 with the requirements of this division, the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101 et seq.), or
11 the terms and conditions of employment, the Sec-
12 retary of Labor shall require payment of unpaid
13 wages, unpaid benefits, damages, and civil money
14 penalties. The Secretary is also authorized to impose
15 other administrative remedies, including disqualifica-
16 tion of the employer from utilizing the H-2B pro-
17 gram for a period of up to 5 years in the event of
18 willful or multiple material violations. The Secretary
19 is authorized to permanently disqualify an employer
20 from utilizing the H-2B program upon a subsequent
21 finding involving willful or multiple material viola-
22 tions.

23 (5) DISPOSITION OF PENALTIES.—To the ex-
24 tent provided in advance in appropriations Acts, civil
25 penalties collected under this subsection shall be

1 used by the Secretary of Labor for the administra-
2 tion and enforcement of the provisions of this sec-
3 tion.

4 (6) STATUTORY CONSTRUCTION.—Nothing in
5 this subsection may be construed as limiting the au-
6 thority of the Secretary of Labor to conduct an in-
7 vestigation in the absence of a complaint.

8 (7) RETALIATION PROHIBITED.—It is a viola-
9 tion of this subsection for any person to intimidate,
10 threaten, restrain, coerce, blacklist, discharge, or in
11 any other manner discriminate against, or to cause
12 any person to intimidate, threaten, restrain, coerce,
13 blacklist, or in any manner discriminate against, an
14 employee, including a former employee or an appli-
15 cant for employment, because the employee—

16 (A) has disclosed information to the em-
17 ployer, or to any other person, that the em-
18 ployee reasonably believes evidences a violation
19 of the immigration laws relating to the H–2B
20 program, or any rule or regulation relating to
21 such program;

22 (B) has filed a complaint concerning the
23 employer’s compliance with the immigration
24 laws relating to the H–2B program, or any rule
25 or regulation relating to such program;

1 (C) cooperates or seeks to cooperate in an
2 investigation or other proceeding concerning the
3 employer's compliance with the immigration
4 laws relating to the H-2B program, or any rule
5 or regulation relating to such program; or

6 (D) has taken steps to exercise or assert
7 any right or protection under the provisions of
8 this section, or any rule or regulation pertaining
9 to this section, or any other relevant Federal,
10 State, or local law.

11 (c) INTERAGENCY COMMUNICATION.—The Secretary
12 of Labor, in consultation with the Secretary of Homeland
13 Security, the Secretary of State and the Equal Employ-
14 ment Opportunity Commission, shall establish mecha-
15 nisms by which the agencies and their components share
16 information, including by public electronic means, regard-
17 ing complaints, studies, investigations, findings and rem-
18 edies regarding compliance by employers with the require-
19 ments of the H-2B program and other employment-re-
20 lated laws and regulations.

21 **SEC. 31009. PROGRAM ELIGIBILITY.**

22 (a) IN GENERAL.—A petition filed by an employer
23 under subsection (c)(1) initially to grant an alien non-
24 immigrant status under section 101(a)(15)(H)(ii)(b) of
25 the Immigration and Nationality Act (8 U.S.C.

1 1101(a)(15)(H)(ii)(b)), or to extend or change to such sta-
2 tus, may be approved only for nationals of countries that
3 the Secretary of Homeland Security has designated as
4 participating countries, with the concurrence of the Sec-
5 retary of State, in a notice published in the Federal Reg-
6 ister, taking into account for each such country factors,
7 including—

8 (1) the fraud rate relating to petitions under
9 section 101(a)(15)(H)(ii) of such Act (8 U.S.C.
10 1101(a)(15)(H)(ii)) filed for by nationals of the
11 country and visa applications under such section
12 filed by nationals of the country;

13 (2) the denial rate of visa applications under
14 such section 101(a)(15)(H)(ii) filed by nationals of
15 the country;

16 (3) the overstay rate of nationals of the country
17 who were admitted to the United States under such
18 section 101(a)(15)(H)(ii);

19 (4) the number of nationals of the country who
20 were admitted to the United States under such sec-
21 tion 101(a)(15)(H)(ii) and who were reported by
22 their employers to—

23 (A) have failed to report to work within 5
24 workdays of the employment start date on the
25 petition or within 5 workdays of the date on

1 which the worker is admitted into the United
2 States pursuant to the petition, whichever is
3 later; or

4 (B) have not reported for work for a pe-
5 riod of 5 consecutive workdays without the con-
6 sent of the employer;

7 (5) the number of final and unexecuted orders
8 of removal against citizens, subjects, nationals, and
9 residents of the country; and

10 (6) such other factors as may serve the United
11 States interest.

12 (b) LIMITATION.—A country may not be included on
13 the list described in subsection (a) if the country denies
14 or unreasonably delays the repatriation of aliens who are
15 subject to a final order of removal and who are citizens,
16 subjects, nationals or residents of that country.

17 (c) STATISTICS.—The Secretary of Homeland Secu-
18 rity shall include in the notice described in subsection (a),
19 for each country included in the list of participating coun-
20 tries, the statistics referenced in paragraphs (1) through
21 (5) of that subsection, if available, for the immediately
22 preceding fiscal year.

23 (d) NATIONAL FROM A COUNTRY NOT ON THE
24 LIST.—A national from a country not on the list described
25 in subsection (a) may be a beneficiary of an approved peti-

1 tion under such section 101(a)(15)(H)(ii) upon the re-
2 quest of a petitioner or potential petitioner, if the Sec-
3 retary of Homeland Security, in his sole and unreviewable
4 discretion, determines that it is in the United States inter-
5 est for that alien to be a beneficiary of such petition. De-
6 termination of such a United States interest will take into
7 account factors, including but not limited to—

8 (1) evidence from the petitioner demonstrating
9 that a worker with the required skills is not available
10 from among foreign workers from a country cur-
11 rently on the list described in subsection (a);

12 (2) evidence that the beneficiary has been ad-
13 mitted to the United States previously in status
14 under such section 101(a)(15)(H)(ii);

15 (3) the potential for abuse, fraud, or other
16 harm to the integrity of the visa program under
17 such section 101(a)(15)(H)(ii) through the potential
18 admission of a beneficiary from a country not cur-
19 rently on the list; and

20 (4) such other factors as may serve the United
21 States interest.

22 (e) DURATION.—Once published, any designation of
23 participating countries pursuant to subsection (a) shall be
24 effective for one year after the date of publication in the

1 Federal Register and shall be without effect at the end
2 of that one-year period.

3 **SEC. 31010. H-2B EMPLOYER NOTIFICATION REQUIREMENT.**

4 (a) IN GENERAL.—An employer of one or more H-
5 2B workers shall, within three business days, make elec-
6 tronic notification, in the manner prescribed by the Sec-
7 retary of Homeland Security, of the following events:

8 (1) Such a worker fails to report to work within
9 5 workdays of the employment start date on the pe-
10 tition or within 5 workdays of the date on which the
11 worker is admitted into the United States pursuant
12 to the petition, whichever is later.

13 (2) The labor or services for which such a work-
14 er was hired is completed more than 30 days earlier
15 than the employment end date stated on the peti-
16 tion.

17 (3) The employment of such a worker is termi-
18 nated prior to the completion of labor or services for
19 which he or she was hired.

20 (4) Such a worker has not reported for work
21 for a period of 5 consecutive workdays without the
22 consent of the employer.

23 (b) EVIDENCE.—An employer shall retain evidence of
24 a notification described in subsection (a) and make it
25 available for inspection by officers of the Department of

1 Homeland Security for a 1-year period beginning on the
2 date of the notification.

3 (c) PENALTY.—The Secretary shall impose civil mon-
4 etary penalties, in an amount not less than \$500 per viola-
5 tion and not to exceed \$1,000 per violation, as the Sec-
6 retary determines to be appropriate, for each instance
7 where the employer cannot demonstrate that it has com-
8 plied with the notification requirements, unless, in the
9 case of an untimely notification, the employer dem-
10 onstrates with such notification that good cause existed
11 for the untimely notification, and the Secretary of Home-
12 land Security, in the Secretary’s discretion, waives such
13 penalty.

14 (d) PROCESS.—If the Secretary has determined that
15 an employer has violated the notification requirements in
16 subsection (a), the employer shall be given written notice
17 and 30 days to reply before being given written notice of
18 the assessment of the penalty.

19 (e) FAILURE TO PAY PENALTY.—If a penalty de-
20 scribed in subsection (c) is not paid within 10 days of as-
21 sessment, no nonimmigrant or immigrant petition may be
22 processed for that employer, nor may that employer con-
23 tinue to employ nonimmigrants, until such penalty is paid.

1 **SEC. 31011. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated for fiscal
3 year 2024 and each fiscal year thereafter such sums as
4 may be necessary for the purposes of—

5 (1) recruiting United States workers for labor
6 or services which might otherwise be performed by
7 H–2B workers, including by ensuring that State
8 workforce agencies are sufficiently funded to fulfill
9 their functions under the H–2B program;

10 (2) enabling the Secretary of Labor to make de-
11 terminations and certifications under the H–2B pro-
12 gram in accordance with this division and the Immi-
13 gration and Nationality Act (8 U.S.C. 1101 et seq.),
14 including the operation of the publicly accessible on-
15 line job registry and database of job orders described
16 in section 1005(b) of this division; and

17 (3) monitoring the terms and conditions under
18 which H–2B workers (and United States workers
19 employed by the same employers) are employed in
20 the United States.

21 **DIVISION D—AMERICAN**
22 **AGRICULTURE DOMINANCE ACT**

23 **SEC. 41001. SHORT TITLE.**

24 This Act may be cited as the “American Agriculture
25 Dominance Act”.

1 **TITLE I—SECURING THE DOMES-**
2 **TIC AGRICULTURAL WORK-**
3 **FORCE**

4 **Subtitle A—Status for Certified**
5 **Agricultural Workers**

6 **SEC. 41101. CERTIFIED AGRICULTURAL WORKER STATUS.**

7 (a) REQUIREMENTS FOR CERTIFIED AGRICULTURAL
8 WORKER STATUS.—

9 (1) PRINCIPAL ALIENS.—The Secretary may
10 grant certified agricultural worker status to an alien
11 who submits a completed application, including the
12 required processing fees, before the end of the period
13 set forth in subsection (c) and who—

14 (A) performed agricultural labor or serv-
15 ices in the United States for at least 1,035
16 hours (or 180 workdays) during the 2-year pe-
17 riod preceding the date of the introduction of
18 this Act;

19 (B) on the date of the introduction of this
20 Act—

21 (i) is inadmissible or deportable from
22 the United States; or

23 (ii) is under a grant of deferred en-
24 forced departure or has temporary pro-

1 tected status under section 244 of the Im-
2 migration and Nationality Act;

3 (C) subject to section 104, has been con-
4 tinuously present in the United States since the
5 date of the introduction of this Act and until
6 the date on which the alien is granted certified
7 agricultural worker status; and

8 (D) is not otherwise ineligible for certified
9 agricultural worker status as provided in sub-
10 section (b).

11 (2) DEPENDENT SPOUSE AND CHILDREN.—The
12 Secretary may grant certified agricultural dependent
13 status to the spouse or child of an alien granted cer-
14 tified agricultural worker status under paragraph
15 (1) if the spouse or child is not ineligible for cer-
16 tified agricultural dependent status as provided in
17 subsection (b).

18 (b) GROUNDS FOR INELIGIBILITY.—

19 (1) GROUNDS OF INADMISSIBILITY.—Except as
20 provided in paragraph (3), an alien is ineligible for
21 certified agricultural worker or certified agricultural
22 dependent status if the Secretary determines that
23 the alien is inadmissible under section 212(a) of the
24 Immigration and Nationality Act (8 U.S.C.

1 1182(a)), except that in determining inadmis-
2 sibility—

3 (A) paragraphs (4), (5), (7), and (9)(B) of
4 such section shall not apply;

5 (B) subparagraphs (A), (C), (D), (F), and
6 (G) of such section 212(a)(6) and paragraphs
7 (9)(C) and (10)(B) of such section 212(a) shall
8 not apply unless based on the act of unlawfully
9 entering the United States after the date of in-
10 troduction of this Act; and

11 (C) paragraphs (6)(B) and (9)(A) of such
12 section 212(a) shall not apply unless the rel-
13 evant conduct began on or after the date of fil-
14 ing of the application for certified agricultural
15 worker status.

16 (2) **ADDITIONAL CRIMINAL BARS.**—Except as
17 provided in paragraph (3), an alien is ineligible for
18 certified agricultural worker or certified agricultural
19 dependent status if the Secretary determines that,
20 excluding any offense under State law for which an
21 essential element is the alien’s immigration status
22 and any minor traffic offense, the alien has been
23 convicted of—

24 (A) any felony offense;

1 (B) an aggravated felony (as defined in
2 section 101(a)(43) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)(43)) at the
4 time of the conviction);

5 (C) two misdemeanor offenses involving
6 moral turpitude, as described in section
7 212(a)(2)(A)(i)(I) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)),
9 unless an offense is waived by the Secretary
10 under paragraph (3)(B); or

11 (D) three or more misdemeanor offenses
12 not occurring on the same date, and not arising
13 out of the same act, omission, or scheme of
14 misconduct.

15 (3) WAIVERS FOR CERTAIN GROUNDS OF INAD-
16 MISSIBILITY.—For humanitarian purposes, family
17 unity, or if otherwise in the public interest, the Sec-
18 retary may waive the grounds of inadmissibility
19 under—

20 (A) paragraph (1), (6)(E), or (10)(D) of
21 section 212(a) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1182(a)); or

23 (B) subparagraphs (A) and (D) of section
24 212(a)(2) of the Immigration and Nationality
25 Act (8 U.S.C. 1182(a)(2)), unless inadmis-

1 sibility is based on a conviction that would oth-
2 erwise render the alien ineligible under subpara-
3 graph (A), (B), or (D) of paragraph (2).

4 (c) APPLICATION.—

5 (1) APPLICATION PERIOD.—Except as provided
6 in paragraph (2), the Secretary shall accept initial
7 applications for certified agricultural worker status
8 during the 18-month period beginning on the date
9 on which the interim final rule is published in the
10 Federal Register pursuant to section 122(a).

11 (2) EXTENSION.—If the Secretary determines,
12 during the initial period described in paragraph (1),
13 that additional time is required to process initial ap-
14 plications for certified agricultural worker status or
15 for other good cause, the Secretary may extend the
16 period for accepting applications for up to an addi-
17 tional 12 months.

18 (3) SUBMISSION OF APPLICATIONS.—

19 (A) IN GENERAL.—An alien may file an
20 application with the Secretary under this sec-
21 tion with the assistance of an attorney or a
22 nonprofit religious, charitable, social service, or
23 similar organization recognized by the Board of
24 Immigration Appeals under section 292.2 of
25 title 8, Code of Federal Regulations. The Sec-

1 retary shall also create a procedure for accept-
2 ing applications filed by qualified designated en-
3 tities with the consent of the applicant.

4 (B) FARM SERVICE AGENCY OFFICES.—
5 The Secretary, in consultation with the Sec-
6 retary of Agriculture, shall establish a process
7 for the filing of applications under this section
8 at Farm Service Agency offices throughout the
9 United States.

10 (4) EVIDENCE OF APPLICATION FILING.—As
11 soon as practicable after receiving an application for
12 certified agricultural worker status, the Secretary
13 shall provide the applicant with a document acknowl-
14 edging the receipt of such application. Such docu-
15 ment shall serve as interim proof of the alien's au-
16 thorization to accept employment in the United
17 States and shall be accepted by an employer as evi-
18 dence of employment authorization under section
19 274A(b)(1)(C) of the Immigration and Nationality
20 Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is
21 employing the holder of such document to perform
22 agricultural labor or services, pending a final admin-
23 istrative decision on the application.

24 (5) EFFECT OF PENDING APPLICATION.—Dur-
25 ing the period beginning on the date on which an

1 alien applies for certified agricultural worker status
2 under this subtitle, and ending on the date on which
3 the Secretary makes a final administrative decision
4 regarding such application, the alien and any de-
5 pendants included in the application—

6 (A) may apply for advance parole, which
7 shall be granted upon demonstrating a legiti-
8 mate need to travel outside the United States
9 for a temporary purpose;

10 (B) may not be detained by the Secretary
11 or removed from the United States unless the
12 Secretary makes a prima facie determination
13 that such alien is, or has become, ineligible for
14 certified agricultural worker status;

15 (C) may not be considered unlawfully
16 present under section 212(a)(9)(B) of the Im-
17 migration and Nationality Act (8 U.S.C.
18 1182(a)(9)(B)); and

19 (D) may not be considered an unauthor-
20 ized alien (as defined in section 274A(h)(3) of
21 the Immigration and Nationality Act (8 U.S.C.
22 1324a(h)(3))).

23 (6) WITHDRAWAL OF APPLICATION.—The Sec-
24 retary shall, upon receipt of a request from the ap-
25 plicant to withdraw an application for certified agri-

1 cultural worker status under this subtitle, cease
2 processing of the application, and close the case.
3 Withdrawal of the application shall not prejudice
4 any future application filed by the applicant for any
5 immigration benefit under this Act or under the Im-
6 migration and Nationality Act (8 U.S.C. 1101 et
7 seq.).

8 (d) ADJUDICATION AND DECISION.—

9 (1) IN GENERAL.—Subject to section 123, the
10 Secretary shall render a decision on an application
11 for certified agricultural worker status not later than
12 180 days after the date the application is filed.

13 (2) NOTICE.—Prior to denying an application
14 for certified agricultural worker status, the Sec-
15 retary shall provide the alien with—

16 (A) written notice that describes the basis
17 for ineligibility or the deficiencies in the evi-
18 dence submitted; and

19 (B) at least 90 days to contest ineligibility
20 or submit additional evidence.

21 (3) AMENDED APPLICATION.—An alien whose
22 application for certified agricultural worker status is
23 denied under this section may submit an amended
24 application for such status to the Secretary if the
25 amended application is submitted within the applica-

1 tion period described in subsection (c) and contains
2 all the required information and fees that were miss-
3 ing from the initial application.

4 (e) **ALTERNATIVE H-2A STATUS.**—An alien who has
5 not met the required period of agricultural labor or serv-
6 ices under subsection (a)(1)(A), but is otherwise eligible
7 for certified agricultural worker status under such sub-
8 section, shall be eligible for classification as a non-
9 immigrant described in section 101(a)(15)(H)(ii)(a) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-
12 mitted by a sponsoring employer, if the alien has per-
13 formed at least 575 hours (or 100 workdays) of agricul-
14 tural labor or services during the 3-year period preceding
15 the date of the introduction of this Act. The Secretary
16 shall create a procedure to provide for such classification
17 without requiring the alien to depart the United States
18 and obtain a visa abroad.

19 **SEC. 41102. TERMS AND CONDITIONS OF CERTIFIED STA-**
20 **TUS.**

21 (a) **IN GENERAL.**—

22 (1) **APPROVAL.**—Upon approval of an applica-
23 tion for certified agricultural worker status, or an
24 extension of such status pursuant to section 103, the
25 Secretary shall issue—

1 (A) documentary evidence of such status to
2 the applicant; and

3 (B) documentary evidence of certified agri-
4 cultural dependent status to any qualified de-
5 pendent included on such application.

6 (2) DOCUMENTARY EVIDENCE.—In addition to
7 any other features and information as the Secretary
8 may prescribe, the documentary evidence described
9 in paragraph (1)—

10 (A) shall be machine-readable and tamper-
11 resistant;

12 (B) shall contain a digitized photograph;

13 (C) shall serve as a valid travel and entry
14 document for purposes of applying for admis-
15 sion to the United States; and

16 (D) shall be accepted during the period of
17 its validity by an employer as evidence of em-
18 ployment authorization and identity under sec-
19 tion 274A(b)(1)(B) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1324a(b)(1)(B)).

21 (3) VALIDITY PERIOD.—Certified agricultural
22 worker and certified agricultural dependent status
23 shall be valid for 5½ years beginning on the date of
24 approval.

1 (4) TRAVEL AUTHORIZATION.—An alien with
2 certified agricultural worker or certified agricultural
3 dependent status may—

4 (A) travel within and outside of the United
5 States, including commuting to the United
6 States from a residence in a foreign country;
7 and

8 (B) be admitted to the United States upon
9 return from travel abroad without first obtain-
10 ing a visa if the alien is in possession of—

11 (i) valid, unexpired documentary evi-
12 dence of certified agricultural worker or
13 certified agricultural worker dependent sta-
14 tus as described in subsection (a); or

15 (ii) a travel document that has been
16 approved by the Secretary and was issued
17 to the alien after the alien's original docu-
18 mentary evidence was lost, stolen, or de-
19 stroyed.

20 (b) ABILITY TO CHANGE STATUS.—

21 (1) CHANGE TO CERTIFIED AGRICULTURAL
22 WORKER STATUS.—Notwithstanding section 101(a),
23 an alien with valid certified agricultural dependent
24 status may apply to change to certified agricultural
25 worker status, at any time, if the alien—

1 (A) submits a completed application, in-
2 cluding the required processing fees; and

3 (B) is not ineligible for certified agricul-
4 tural worker status under section 101(b).

5 (2) CLARIFICATION.—Nothing in this title pro-
6 hibits an alien granted certified agricultural worker
7 or certified agricultural dependent status from
8 changing status to any other nonimmigrant classi-
9 fication for which the alien may be eligible.

10 (c) PROHIBITION ON PUBLIC BENEFITS, TAX BENE-
11 FITS, AND HEALTH CARE SUBSIDIES.—Aliens granted
12 certified agricultural worker or certified agricultural de-
13 pendent status shall be considered lawfully present in the
14 United States for all purposes for the duration of their
15 status, except that such aliens—

16 (1) shall be ineligible for Federal means-tested
17 public benefits to the same extent as other individ-
18 uals who are not qualified aliens under section 431
19 of the Personal Responsibility and Work Oppor-
20 tunity Reconciliation Act of 1996 (8 U.S.C. 1641);

21 (2) are not entitled to the premium assistance
22 tax credit authorized under section 36B of the Inter-
23 nal Revenue Code of 1986 (26 U.S.C. 36B), and
24 shall be subject to the rules applicable to individuals

1 who are not lawfully present set forth in subsection
2 (e) of such section;

3 (3) shall be subject to the rules applicable to in-
4 dividuals who are not lawfully present set forth in
5 section 1402(e) of the Patient Protection and Af-
6 fordable Care Act (42 U.S.C. 18071(e)); and

7 (4) shall be subject to the rules applicable to in-
8 dividuals not lawfully present set forth in section
9 5000A(d)(3) of the Internal Revenue Code of 1986
10 (26 U.S.C. 5000A(d)(3)).

11 (d) REVOCATION OF STATUS.—

12 (1) IN GENERAL.—The Secretary may revoke
13 certified agricultural worker or certified agricultural
14 dependent status if, after providing notice to the
15 alien and the opportunity to provide evidence to con-
16 test the proposed revocation, the Secretary deter-
17 mines that the alien no longer meets the eligibility
18 requirements for such status under section 101(b).

19 (2) INVALIDATION OF DOCUMENTATION.—Upon
20 the Secretary's final determination to revoke an
21 alien's certified agricultural worker or certified agri-
22 cultural dependent status, any documentation issued
23 by the Secretary to such alien under subsection (a)
24 shall automatically be rendered invalid for any pur-
25 pose except for departure from the United States.

1 **SEC. 41103. EXTENSIONS OF CERTIFIED STATUS.**

2 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

3 (1) PRINCIPAL ALIENS.—The Secretary may
4 extend certified agricultural worker status for addi-
5 tional periods of 5½ years to an alien who submits
6 a completed application, including the required proc-
7 essing fees, within the 120-day period beginning 60
8 days before the expiration of the fifth year of the
9 immediately preceding grant of certified agricultural
10 worker status, if the alien—

11 (A) except as provided in section 126(e),
12 has performed agricultural labor or services in
13 the United States for at least 575 hours (or
14 100 workdays) for each of the prior 5 years in
15 which the alien held certified agricultural work-
16 er status; and

17 (B) has not become ineligible for certified
18 agricultural worker status under section 101(b).

19 (2) DEPENDENT SPOUSE AND CHILDREN.—The
20 Secretary may grant or extend certified agricultural
21 dependent status to the spouse or child of an alien
22 granted an extension of certified agricultural worker
23 status under paragraph (1) if the spouse or child is
24 not ineligible for certified agricultural dependent sta-
25 tus under section 101(b).

1 (3) WAIVER FOR LATE FILINGS.—The Sec-
2 retary may waive an alien’s failure to timely file be-
3 fore the expiration of the 120-day period described
4 in paragraph (1) if the alien demonstrates that the
5 delay was due to extraordinary circumstances be-
6 yond the alien’s control or for other good cause.

7 (b) STATUS FOR WORKERS WITH PENDING APPLICA-
8 TIONS.—

9 (1) IN GENERAL.—Certified agricultural worker
10 status of an alien who timely files an application to
11 extend such status under subsection (a) (and the
12 status of the alien’s dependents) shall be automati-
13 cally extended through the date on which the Sec-
14 retary makes a final administrative decision regard-
15 ing such application.

16 (2) DOCUMENTATION OF EMPLOYMENT AU-
17 THORIZATION.—As soon as practicable after receipt
18 of an application to extend certified agricultural
19 worker status under subsection (a), the Secretary
20 shall issue a document to the alien acknowledging
21 the receipt of such application. An employer of the
22 worker may not refuse to accept such document as
23 evidence of employment authorization under section
24 274A(b)(1)(C) of the Immigration and Nationality

1 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-
2 ministrative decision on the application.

3 (c) NOTICE.—Prior to denying an application to ex-
4 tend certified agricultural worker status, the Secretary
5 shall provide the alien with—

6 (1) written notice that describes the basis for
7 ineligibility or the deficiencies of the evidence sub-
8 mitted; and

9 (2) at least 90 days to contest ineligibility or
10 submit additional evidence.

11 **SEC. 41104. DETERMINATION OF CONTINUOUS PRESENCE.**

12 (a) EFFECT OF NOTICE TO APPEAR.—The contin-
13 uous presence in the United States of an applicant for cer-
14 tified agricultural worker status under section 101 shall
15 not terminate when the alien is served a notice to appear
16 under section 239(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1229(a)).

18 (b) TREATMENT OF CERTAIN BREAKS IN PRES-
19 ENCE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), an alien shall be considered to
22 have failed to maintain continuous presence in the
23 United States under this subtitle if the alien de-
24 parted the United States for any period exceeding

1 90 days, or for any periods, in the aggregate, ex-
2 ceeding 180 days.

3 (2) EXTENSIONS FOR EXTENUATING CIR-
4 CUMSTANCES.—The Secretary may extend the time
5 periods described in paragraph (1) for an alien who
6 demonstrates that the failure to timely return to the
7 United States was due to extenuating circumstances
8 beyond the alien's control, including the serious ill-
9 ness of the alien, or death or serious illness of a
10 spouse, parent, son or daughter, grandparent, or sib-
11 ling of the alien.

12 (3) TRAVEL AUTHORIZED BY THE SEC-
13 RETARY.—Any period of travel outside of the United
14 States by an alien that was authorized by the Sec-
15 retary shall not be counted toward any period of de-
16 parture from the United States under paragraph
17 (1).

18 **SEC. 41105. EMPLOYER OBLIGATIONS.**

19 (a) RECORD OF EMPLOYMENT.—An employer of an
20 alien in certified agricultural worker status shall provide
21 such alien with a written record of employment each year
22 during which the alien provides agricultural labor or serv-
23 ices to such employer as a certified agricultural worker.

24 (b) CIVIL PENALTIES.—

1 (1) IN GENERAL.—If the Secretary determines,
2 after notice and an opportunity for a hearing, that
3 an employer of an alien with certified agricultural
4 worker status has knowingly failed to provide the
5 record of employment required under subsection (a),
6 or has provided a false statement of material fact in
7 such a record, the employer shall be subject to a civil
8 penalty in an amount not to exceed \$500 per viola-
9 tion.

10 (2) LIMITATION.—The penalty under paragraph
11 (1) for failure to provide employment records shall
12 not apply unless the alien has provided the employer
13 with evidence of employment authorization described
14 in section 102 or 103.

15 (3) DEPOSIT OF CIVIL PENALTIES.—Civil pen-
16 alties collected under this paragraph shall be depos-
17 ited into the Immigration Examinations Fee Ac-
18 count under section 286(m) of the Immigration and
19 Nationality Act (8 U.S.C. 1356(m)).

20 **SEC. 41106. ADMINISTRATIVE AND JUDICIAL REVIEW.**

21 (a) ADMINISTRATIVE REVIEW.—The Secretary shall
22 establish a process by which an applicant may seek admin-
23 istrative review of a denial of an application for certified
24 agricultural worker status under this subtitle, an applica-
25 tion to extend such status, or a revocation of such status.

1 (b) ADMISSIBILITY IN IMMIGRATION COURT.—Each
2 record of an alien’s application for certified agricultural
3 worker status under this subtitle, application to extend
4 such status, revocation of such status, and each record
5 created pursuant to the administrative review process
6 under subsection (a) is admissible in immigration court,
7 and shall be included in the administrative record.

8 (c) JUDICIAL REVIEW.—Notwithstanding any other
9 provision of law, judicial review of the Secretary’s decision
10 to deny an application for certified agricultural worker
11 status, an application to extend such status, or the deci-
12 sion to revoke such status, shall be limited to the review
13 of an order of removal under section 242 of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1252).

15 **Subtitle B—Optional Earned**
16 **Residence for Long-Term Workers**

17 **SEC. 41201. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-**
18 **TERM AGRICULTURAL WORKERS.**

19 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-
20 TUS.—

21 (1) PRINCIPAL ALIENS.—The Secretary may
22 adjust the status of an alien from that of a certified
23 agricultural worker to that of a lawful permanent
24 resident if the alien submits a completed application,

1 including the required processing and penalty fees,
2 and the Secretary determines that—

3 (A) except as provided in section 126(e),
4 the alien performed agricultural labor or serv-
5 ices for not less than 575 hours (or 100 work-
6 days) each year—

7 (i) for at least 10 years prior to the
8 date of the enactment of this Act and for
9 at least 4 years in certified agricultural
10 worker status; or

11 (ii) for fewer than 10 years prior to
12 the date of the enactment of this Act and
13 for at least 8 years in certified agricultural
14 worker status; and

15 (B) the alien has not become ineligible for
16 certified agricultural worker status under sec-
17 tion 101(b).

18 (2) DEPENDENT ALIENS.—

19 (A) IN GENERAL.—The spouse and each
20 child of an alien described in paragraph (1)
21 whose status has been adjusted to that of a
22 lawful permanent resident may be granted law-
23 ful permanent residence under this subtitle if—

24 (i) the qualifying relationship to the
25 principal alien existed on the date on which

1 such alien was granted adjustment of sta-
2 tus under this subtitle; and

3 (ii) the spouse or child is not ineligible
4 for certified agricultural worker dependent
5 status under section 101(b).

6 (B) PROTECTIONS FOR SPOUSES AND
7 CHILDREN.—The Secretary of Homeland Secu-
8 rity shall establish procedures to allow the
9 spouse or child of a certified agricultural work-
10 er to self-petition for lawful permanent resi-
11 dence under this subtitle in cases involving—

12 (i) the death of the certified agricul-
13 tural worker, so long as the spouse or child
14 submits a petition not later than 2 years
15 after the date of the worker's death; or

16 (ii) the spouse or a child being bat-
17 tered or subjected to extreme cruelty by
18 the certified agricultural worker.

19 (3) DOCUMENTATION OF WORK HISTORY.—An
20 applicant for adjustment of status under this section
21 shall not be required to resubmit evidence of work
22 history that has been previously submitted to the
23 Secretary in connection with an approved extension
24 of certified agricultural worker status.

1 (b) PENALTY FEE.—In addition to any processing
2 fee that the Secretary may assess in accordance with sec-
3 tion 122(b), a principal alien seeking adjustment of status
4 under this subtitle shall pay a \$1,000 penalty fee, which
5 shall be deposited into the Immigration Examinations Fee
6 Account pursuant to section 286(m) of the Immigration
7 and Nationality Act (8 U.S.C. 1356(m)).

8 (c) EFFECT OF PENDING APPLICATION.—During the
9 period beginning on the date on which an alien applies
10 for adjustment of status under this subtitle, and ending
11 on the date on which the Secretary makes a final adminis-
12 trative decision regarding such application, the alien and
13 any dependents included on the application—

14 (1) may apply for advance parole, which shall
15 be granted upon demonstrating a legitimate need to
16 travel outside the United States for a temporary
17 purpose;

18 (2) may not be detained by the Secretary or re-
19 moved from the United States unless the Secretary
20 makes a prima facie determination that such alien
21 is, or has become, ineligible for adjustment of status
22 under subsection (a);

23 (3) may not be considered unlawfully present
24 under section 212(a)(9)(B) of the Immigration and
25 Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

1 (4) may not be considered an unauthorized
2 alien (as defined in section 274A(h)(3) of the Immi-
3 gration and Nationality Act (8 U.S.C.
4 1324a(h)(3))).

5 (d) EVIDENCE OF APPLICATION FILING.—As soon as
6 practicable after receiving an application for adjustment
7 of status under this subtitle, the Secretary shall provide
8 the applicant with a document acknowledging the receipt
9 of such application. Such document shall serve as interim
10 proof of the alien’s authorization to accept employment
11 in the United States and shall be accepted by an employer
12 as evidence of employment authorization under section
13 274A(b)(1)(C) of the Immigration and Nationality Act (8
14 U.S.C. 1324a(b)(1)(C)), pending a final administrative
15 decision on the application.

16 (e) WITHDRAWAL OF APPLICATION.—The Secretary
17 shall, upon receipt of a request to withdraw an application
18 for adjustment of status under this subtitle, cease proc-
19 essing of the application, and close the case. Withdrawal
20 of the application shall not prejudice any future applica-
21 tion filed by the applicant for any immigration benefit
22 under this Act or under the Immigration and Nationality
23 Act (8 U.S.C. 1101 et seq.).

1 **SEC. 41202. PAYMENT OF TAXES.**

2 (a) IN GENERAL.—An alien may not be granted ad-
3 justment of status under this subtitle unless the applicant
4 has satisfied any applicable Federal tax liability.

5 (b) COMPLIANCE.—An alien may demonstrate com-
6 pliance with subsection (a) by submitting such documenta-
7 tion as the Secretary, in consultation with the Secretary
8 of the Treasury, may require by regulation.

9 **SEC. 41203. ADJUDICATION AND DECISION; REVIEW.**

10 (a) IN GENERAL.—Subject to the requirements of
11 section 123, the Secretary shall render a decision on an
12 application for adjustment of status under this subtitle not
13 later than 180 days after the date on which the application
14 is filed.

15 (b) NOTICE.—Prior to denying an application for ad-
16 justment of status under this subtitle, the Secretary shall
17 provide the alien with—

18 (1) written notice that describes the basis for
19 ineligibility or the deficiencies of the evidence sub-
20 mitted; and

21 (2) at least 90 days to contest ineligibility or
22 submit additional evidence.

23 (c) ADMINISTRATIVE REVIEW.—The Secretary shall
24 establish a process by which an applicant may seek admin-
25 istrative review of a denial of an application for adjust-
26 ment of status under this subtitle.

1 (d) JUDICIAL REVIEW.—Notwithstanding any other
2 provision of law, an alien may seek judicial review of a
3 denial of an application for adjustment of status under
4 this title in an appropriate United States district court.

5 **Subtitle C—General Provisions**

6 **SEC. 41301. DEFINITIONS.**

7 In this title:

8 (1) IN GENERAL.—Except as otherwise pro-
9 vided, any term used in this title that is used in the
10 immigration laws shall have the meaning given such
11 term in the immigration laws (as such term is de-
12 fined in section 101 of the Immigration and Nation-
13 ality Act (8 U.S.C. 1101)).

14 (2) AGRICULTURAL LABOR OR SERVICES.—The
15 term “agricultural labor or services” has the mean-
16 ing given such term in section 101(a)(53) of the Im-
17 migration and Nationality Act (8 U.S.C.
18 1101(a)(53)).

19 (3) APPLICABLE FEDERAL TAX LIABILITY.—
20 The term “applicable Federal tax liability” means all
21 Federal income taxes assessed in accordance with
22 section 6203 of the Internal Revenue Code of 1986
23 beginning on the date on which the applicant was
24 authorized to work in the United States as a cer-
25 tified agricultural worker.

1 (4) APPROPRIATE UNITED STATES DISTRICT
2 COURT.—The term “appropriate United States dis-
3 trict court” means the United States District Court
4 for the District of Columbia or the United States
5 district court with jurisdiction over the alien’s prin-
6 cipal place of residence.

7 (5) CHILD.—The term “child” has the meaning
8 given such term in section 101(b)(1) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1101(b)(1)).

10 (6) CONVICTED OR CONVICTION.—The term
11 “convicted” or “conviction” does not include a judg-
12 ment that has been expunged or set aside, that re-
13 sulted in a rehabilitative disposition, or the equiva-
14 lent.

15 (7) EMPLOYER.—The term “employer” means
16 any person or entity, including any labor contractor
17 or any agricultural association, that employs workers
18 in agricultural labor or services.

19 (8) QUALIFIED DESIGNATED ENTITY.—The
20 term “qualified designated entity” means—

21 (A) a qualified farm labor organization or
22 an association of employers designated by the
23 Secretary; or

24 (B) any other entity that the Secretary
25 designates as having substantial experience,

1 demonstrated competence, and a history of
2 long-term involvement in the preparation and
3 submission of application for adjustment of sta-
4 tus under title II of the Immigration and Na-
5 tionality Act (8 U.S.C. 1151 et seq.).

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

8 (10) WORKDAY.—The term “workday” means
9 any day in which the individual is employed 5.75 or
10 more hours in agricultural labor or services.

11 **SEC. 41302. RULEMAKING; FEES.**

12 (a) RULEMAKING.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary shall pub-
14 lish in the Federal Register, an interim final rule imple-
15 menting this title. Notwithstanding section 553 of title 5,
16 United States Code, the rule shall be effective, on an in-
17 terim basis, immediately upon publication, but may be
18 subject to change and revision after public notice and op-
19 portunity for comment. The Secretary shall finalize such
20 rule not later than 1 year after the date of the enactment
21 of this Act.

22 (b) FEES.—

23 (1) IN GENERAL.—The Secretary may require
24 an alien applying for any benefit under this title to

1 pay a reasonable fee that is commensurate with the
2 cost of processing the application.

3 (2) FEE WAIVER; INSTALLMENTS.—

4 (A) IN GENERAL.—The Secretary shall es-
5 tablish procedures to allow an alien to—

6 (i) request a waiver of any fee that
7 the Secretary may assess under this title if
8 the alien demonstrates to the satisfaction
9 of the Secretary that the alien is unable to
10 pay the prescribed fee; or

11 (ii) pay any fee or penalty that the
12 Secretary may assess under this title in in-
13 stallments.

14 (B) CLARIFICATION.—Nothing in this sec-
15 tion shall be read to prohibit an employer from
16 paying any fee or penalty that the Secretary
17 may assess under this title on behalf of an alien
18 and the alien's spouse or children.

19 **SEC. 41303. BACKGROUND CHECKS.**

20 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
21 DATA.—The Secretary may not grant or extend certified
22 agricultural worker or certified agricultural dependent sta-
23 tus under subtitle A, or grant adjustment of status to that
24 of a lawful permanent resident under subtitle B, unless
25 the alien submits biometric and biographic data, in accord-

1 ance with procedures established by the Secretary. The
2 Secretary shall provide an alternative procedure for aliens
3 who cannot provide all required biometric or biographic
4 data because of a physical impairment.

5 (b) **BACKGROUND CHECKS.**—The Secretary shall use
6 biometric, biographic, and other data that the Secretary
7 determines appropriate to conduct security and law en-
8 forcement background checks and to determine whether
9 there is any criminal, national security, or other factor
10 that would render the alien ineligible for status under this
11 title. An alien may not be granted any such status under
12 this title unless security and law enforcement background
13 checks are completed to the satisfaction of the Secretary.

14 **SEC. 41304. PROTECTION FOR CHILDREN.**

15 (a) **IN GENERAL.**—Except as provided in subsection
16 (b), for purposes of eligibility for certified agricultural de-
17 pendent status or lawful permanent resident status under
18 this title, a determination of whether an alien is a child
19 shall be made using the age of the alien on the date on
20 which the initial application for certified agricultural
21 worker status is filed with the Secretary of Homeland Se-
22 curity.

23 (b) **LIMITATION.**—Subsection (a) shall apply for no
24 more than 10 years after the date on which the initial

1 application for certified agricultural worker status is filed
2 with the Secretary of Homeland Security.

3 **SEC. 41305. LIMITATION ON REMOVAL.**

4 (a) IN GENERAL.—An alien who appears to be prima
5 facie eligible for status under this title shall be given a
6 reasonable opportunity to apply for such status. Such an
7 alien may not be placed in removal proceedings or removed
8 from the United States until a final administrative deci-
9 sion establishing ineligibility for such status is rendered.

10 (b) ALIENS IN REMOVAL PROCEEDINGS.—Notwith-
11 standing any other provision of the law, the Attorney Gen-
12 eral shall (upon motion by the Secretary with the consent
13 of the alien, or motion by the alien) terminate removal
14 proceedings, without prejudice, against an alien who ap-
15 pears to be prima facie eligible for status under this title,
16 and provide such alien a reasonable opportunity to apply
17 for such status.

18 (c) EFFECT OF FINAL ORDER.—An alien present in
19 the United States who has been ordered removed or has
20 been permitted to depart voluntarily from the United
21 States may, notwithstanding such order or permission to
22 depart, apply for status under this title. Such alien shall
23 not be required to file a separate motion to reopen, recon-
24 sider, or vacate the order of removal. If the Secretary ap-
25 proves the application, the Secretary shall notify the At-

1 torney General of such approval, and the Attorney General
2 shall cancel the order of removal. If the Secretary renders
3 a final administrative decision to deny the application, the
4 order of removal or permission to depart shall be effective
5 and enforceable to the same extent as if the application
6 had not been made, only after all available administrative
7 and judicial remedies have been exhausted.

8 (d) EFFECT OF DEPARTURE.—Section 101(g) of the
9 Immigration and Nationality Act (8 U.S.C. 1101(g)) shall
10 not apply to an alien who departs the United States—

11 (1) with advance permission to return to the
12 United States granted by the Secretary under this
13 title; or

14 (2) after having been granted certified agricul-
15 tural worker status or lawful permanent resident
16 status under this title.

17 **SEC. 41306. DOCUMENTATION OF AGRICULTURAL WORK**
18 **HISTORY.**

19 (a) BURDEN OF PROOF.—An alien applying for cer-
20 tified agricultural worker status under subtitle A or ad-
21 justment of status under subtitle B has the burden of
22 proving by a preponderance of the evidence that the alien
23 has worked the requisite number of hours or days required
24 under section 101, 103, or 111, as applicable. The Sec-
25 retary shall establish special procedures to properly credit

1 work in cases in which an alien was employed under an
2 assumed name.

3 (b) EVIDENCE.—An alien may meet the burden of
4 proof under subsection (a) by producing sufficient evi-
5 dence to show the extent of such employment as a matter
6 of just and reasonable inference. Such evidence may in-
7 clude—

8 (1) an annual record of certified agricultural
9 worker employment as described in section 105(a),
10 or other employment records from employers;

11 (2) employment records maintained by collective
12 bargaining associations;

13 (3) tax records or other government records;

14 (4) sworn affidavits from individuals who have
15 direct knowledge of the alien's work history; or

16 (5) any other documentation designated by the
17 Secretary for such purpose.

18 (c) EXCEPTIONS FOR EXTRAORDINARY CIR-
19 CUMSTANCES.—

20 (1) IMPACT OF COVID—19.—

21 (A) IN GENERAL.—The Secretary may
22 grant certified agricultural worker status to an
23 alien who is otherwise eligible for such status if
24 such alien is able to only partially satisfy the
25 requirement under section 101(a)(1)(A) as a re-

1 sult of reduced hours of employment or other
2 restrictions associated with the public health
3 emergency declared by the Secretary of Health
4 and Human Services under section 319 of the
5 Public Health Service Act (42 U.S.C. 247d)
6 with respect to COVID–19.

7 (B) LIMITATION.—The exception described
8 in subparagraph (A) shall apply only to agricul-
9 tural labor or services required to be performed
10 during the period that—

11 (i) begins on the first day of the pub-
12 lic health emergency described in subpara-
13 graph (A); and

14 (ii) ends 90 days after the date on
15 which such public health emergency termi-
16 nates.

17 (2) EXTRAORDINARY CIRCUMSTANCES.—In de-
18 termining whether an alien has met the requirement
19 under section 103(a)(1)(A) or 111(a)(1)(A), the Sec-
20 retary may credit the alien with not more than 575
21 hours (or 100 workdays) of agricultural labor or
22 services in the United States if the alien was unable
23 to perform the required agricultural labor or services
24 due to—

1 (A) pregnancy, parental leave, illness, dis-
2 ease, disabling injury, or physical limitation of
3 the alien;

4 (B) injury, illness, disease, or other special
5 needs of the alien's child or spouse;

6 (C) severe weather conditions that pre-
7 vented the alien from engaging in agricultural
8 labor or services;

9 (D) reduced hours of employment or other
10 restrictions associated with the public health
11 emergency declared by the Secretary of Health
12 and Human Services under section 319 of the
13 Public Health Service Act (42 U.S.C. 247d)
14 with respect to COVID-19; or

15 (E) termination from agricultural employ-
16 ment, if the Secretary determines that—

17 (i) the termination was without just
18 cause; and

19 (ii) the alien was unable to find alter-
20 native agricultural employment after a rea-
21 sonable job search.

22 (3) EFFECT OF DETERMINATION.—A deter-
23 mination under paragraph (1)(E) shall not be con-
24 clusive, binding, or admissible in a separate or sub-
25 sequent judicial or administrative action or pro-

1 ceeding between the alien and a current or prior em-
2 ployer of the alien or any other party.

3 (4) HARDSHIP WAIVER.—

4 (A) IN GENERAL.—As part of the rule-
5 making described in section 122(a), the Sec-
6 retary shall establish procedures allowing for a
7 partial waiver of the requirement under section
8 111(a)(1)(A) for a certified agricultural worker
9 if such worker—

10 (i) has continuously maintained cer-
11 tified agricultural worker status since the
12 date such status was initially granted;

13 (ii) has partially completed the re-
14 quirement under section 111(a)(1)(A); and

15 (iii) is no longer able to engage in ag-
16 ricultural labor or services safely and effec-
17 tively because of—

18 (I) a permanent disability suf-
19 fered while engaging in agricultural
20 labor or services; or

21 (II) deteriorating health or phys-
22 ical ability combined with advanced
23 age.

24 (B) DISABILITY.—In establishing the pro-
25 cedures described in subparagraph (A), the Sec-

1 retary shall consult with the Secretary of
2 Health and Human Services and the Commis-
3 sioner of Social Security to define “permanent
4 disability” for purposes of a waiver under sub-
5 paragraph (A)(iii)(I).

6 **SEC. 41307. EMPLOYER PROTECTIONS.**

7 (a) CONTINUING EMPLOYMENT.—An employer that
8 continues to employ an alien knowing that the alien in-
9 tends to apply for certified agricultural worker status
10 under subtitle A shall not violate section 274A(a)(2) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1324a(a)(2)) by continuing to employ the alien for the du-
13 ration of the application period under section 101(c), and
14 with respect to an alien who applies for certified agricul-
15 tural status, for the duration of the period during which
16 the alien’s application is pending final determination.

17 (b) USE OF EMPLOYMENT RECORDS.—Copies of em-
18 ployment records or other evidence of employment pro-
19 vided by an alien or by an alien’s employer in support of
20 an alien’s application for certified agricultural worker or
21 adjustment of status under this title may not be used in
22 a civil or criminal prosecution or investigation of that em-
23 ployer under section 274A of the Immigration and Nation-
24 ality Act (8 U.S.C. 1324a) or the Internal Revenue Code

1 of 1986 for the prior unlawful employment of that alien
2 regardless of the outcome of such application.

3 (c) **ADDITIONAL PROTECTIONS.**—Employers that
4 provide unauthorized aliens with copies of employment
5 records or other evidence of employment in support of an
6 application for certified agricultural worker status or ad-
7 justment of status under this title shall not be subject to
8 civil and criminal liability pursuant to such section 274A
9 for employing such unauthorized aliens. Records or other
10 evidence of employment provided by employers in response
11 to a request for such records for the purpose of estab-
12 lishing eligibility for status under this title may not be
13 used for any purpose other than establishing such eligi-
14 bility.

15 (d) **LIMITATION ON PROTECTION.**—The protections
16 for employers under this section shall not apply if the em-
17 ployer provides employment records to the alien that are
18 determined to be fraudulent.

19 **SEC. 41308. CORRECTION OF SOCIAL SECURITY RECORDS;**
20 **CONFORMING AMENDMENTS.**

21 (a) **IN GENERAL.**—Section 208(e)(1) of the Social
22 Security Act (42 U.S.C. 408(e)(1)) is amended—

23 (1) in subparagraph (B)(ii), by striking “or” at
24 the end;

1 (2) in subparagraph (C), by inserting “or” at
2 the end;

3 (3) by inserting after subparagraph (C) the fol-
4 lowing:

5 “(D) who is granted certified agricultural work-
6 er status, certified agricultural dependent status, or
7 lawful permanent resident status under title I of the
8 American Agriculture Dominance Act,”; and

9 (4) in the undesignated matter following sub-
10 subparagraph (D), as added by paragraph (3), by strik-
11 ing “1990.” and inserting “1990, or in the case of
12 an alien described in subparagraph (D), if such con-
13 duct is alleged to have occurred before the date on
14 which the alien was granted status under title I of
15 the American Agriculture Dominance Act.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall take effect on the first day of the sev-
18 enth month that begins after the date of the enactment
19 of this Act.

20 (c) CONFORMING AMENDMENTS.—

21 (1) SOCIAL SECURITY ACT.—Section 210(a)(1)
22 of the Social Security Act (42 U.S.C. 410(a)(1)) is
23 amended by inserting before the semicolon the fol-
24 lowing: “(other than aliens granted certified agricul-
25 tural worker status or certified agricultural depend-

1 ent status under title I of the American Agriculture
2 Dominance Act”.

3 (2) INTERNAL REVENUE CODE OF 1986.—Sec-
4 tion 3121(b)(1) of the Internal Revenue Code of
5 1986 is amended by inserting before the semicolon
6 the following: “(other than aliens granted certified
7 agricultural worker status or certified agricultural
8 dependent status under title I of the American Agri-
9 culture Dominance Act”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply with respect to service
12 performed after the date of the enactment of this
13 Act.

14 (d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECU-
15 RITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the
16 Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended
17 by adding at the end the following:

18 “(iv) The Commissioner of Social Se-
19 curity shall, to the extent practicable, co-
20 ordinate with the Secretary of the Depart-
21 ment of Homeland Security to implement
22 an automated system for the Commissioner
23 to assign social security account numbers
24 to aliens granted certified agricultural
25 worker status or certified agricultural de-

1 pendent status under title I of the Amer-
2 ican Agriculture Dominance Act. An alien
3 who is granted such status, and who was
4 not previously assigned a social security
5 account number, shall request assignment
6 of a social security account number and a
7 social security card from the Commissioner
8 through such system. The Secretary shall
9 collect and provide to the Commissioner
10 such information as the Commissioner
11 deems necessary for the Commissioner to
12 assign a social security account number,
13 which information may be used by the
14 Commissioner for any purpose for which
15 the Commissioner is otherwise authorized
16 under Federal law. The Commissioner may
17 maintain, use, and disclose such informa-
18 tion only as permitted by the Privacy Act
19 and other Federal law.”.

20 **SEC. 41309. DISCLOSURES AND PRIVACY.**

21 (a) IN GENERAL.—The Secretary may not disclose
22 or use information provided in an application for certified
23 agricultural worker status or adjustment of status under
24 this title (including information provided during adminis-

1 trative or judicial review) for the purpose of immigration
2 enforcement.

3 (b) REFERRALS PROHIBITED.—The Secretary, based
4 solely on information provided in an application for cer-
5 tified agricultural worker status or adjustment of status
6 under this title (including information provided during ad-
7 ministrative or judicial review), may not refer an applicant
8 to U.S. Immigration and Customs Enforcement, U.S. Cus-
9 toms and Border Protection, or any designee of either
10 such entity.

11 (c) EXCEPTIONS.—Notwithstanding subsections (a)
12 and (b), information provided in an application for cer-
13 tified agricultural worker status or adjustment of status
14 under this title may be shared with Federal security and
15 law enforcement agencies—

16 (1) for assistance in the consideration of an ap-
17 plication under this title;

18 (2) to identify or prevent fraudulent claims or
19 schemes;

20 (3) for national security purposes; or

21 (4) for the investigation or prosecution of any
22 felony not related to immigration status.

23 (d) PENALTY.—Any person who knowingly uses, pub-
24 lishes, or permits information to be examined in violation
25 of this section shall be fined not more than \$10,000.

1 (e) PRIVACY.—The Secretary shall ensure that ap-
2 propriate administrative and physical safeguards are in
3 place to protect the security, confidentiality, and integrity
4 of personally identifiable information collected, main-
5 tained, and disseminated pursuant to this title.

6 **SEC. 41310. PENALTIES FOR FALSE STATEMENTS IN APPLI-**
7 **CATIONS.**

8 (a) CRIMINAL PENALTY.—Any person who—

9 (1) files an application for certified agricultural
10 worker status or adjustment of status under this
11 title and knowingly falsifies, conceals, or covers up
12 a material fact or makes any false, fictitious, or
13 fraudulent statements or representations, or makes
14 or uses any false writing or document knowing the
15 same to contain any false, fictitious, or fraudulent
16 statement or entry; or

17 (2) creates or supplies a false writing or docu-
18 ment for use in making such an application,
19 shall be fined in accordance with title 18, United States
20 Code, imprisoned not more than 5 years, or both.

21 (b) INADMISSIBILITY.—An alien who is convicted
22 under subsection (a) shall be deemed inadmissible to the
23 United States under section 212(a)(6)(C)(i) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

1 (c) DEPOSIT.—Fines collected under subsection (a)
2 shall be deposited into the Immigration Examinations Fee
3 Account pursuant to section 286(m) of the Immigration
4 and Nationality Act (8 U.S.C. 1356(m)).

5 **SEC. 41311. DISSEMINATION OF INFORMATION.**

6 (a) IN GENERAL.—Beginning not later than the first
7 day of the application period described in section 101(c)—

8 (1) the Secretary of Homeland Security, in co-
9 operation with qualified designated entities, shall
10 broadly disseminate information described in sub-
11 section (b); and

12 (2) the Secretary of Agriculture, in consultation
13 with the Secretary of Homeland Security, shall dis-
14 seminate to agricultural employers a document con-
15 taining the information described in subsection (b)
16 for posting at employer worksites.

17 (b) INFORMATION DESCRIBED.—The information de-
18 scribed in this subsection shall include—

19 (1) the benefits that aliens may receive under
20 this title; and

21 (2) the requirements that an alien must meet to
22 receive such benefits.

23 **SEC. 41312. EXEMPTION FROM NUMERICAL LIMITATIONS.**

24 The numerical limitations under title II of the Immi-
25 gration and Nationality Act (8 U.S.C. 1151 et seq.) shall

1 not apply to the adjustment of aliens to lawful permanent
2 resident status under this title, and such aliens shall not
3 be counted toward any such numerical limitation.

4 **SEC. 41313. REPORTS TO CONGRESS.**

5 Not later than 180 days after the publication of the
6 final rule under section 122(a), and annually thereafter
7 for the following 10 years, the Secretary shall submit a
8 report to Congress that identifies, for the previous fiscal
9 year—

10 (1) the number of principal aliens who applied
11 for certified agricultural worker status under subtitle
12 A, and the number of dependent spouses and chil-
13 dren included in such applications;

14 (2) the number of principal aliens who were
15 granted certified agricultural worker status under
16 subtitle A, and the number of dependent spouses
17 and children who were granted certified agricultural
18 dependent status;

19 (3) the number of principal aliens who applied
20 for an extension of their certified agricultural worker
21 status under subtitle A, and the number of depend-
22 ent spouses and children included in such applica-
23 tions;

24 (4) the number of principal aliens who were
25 granted an extension of certified agricultural worker

1 status under subtitle A, and the number of depend-
2 ent spouses and children who were granted certified
3 agricultural dependent status under such an exten-
4 sion;

5 (5) the number of principal aliens who applied
6 for adjustment of status under subtitle B, and the
7 number of dependent spouses and children included
8 in such applications;

9 (6) the number of principal aliens who were
10 granted lawful permanent resident status under sub-
11 title B, and the number of spouses and children who
12 were granted such status as dependents;

13 (7) the number of principal aliens included in
14 petitions described in section 101(e), and the num-
15 ber of dependent spouses and children included in
16 such applications; and

17 (8) the number of principal aliens who were
18 granted H-2A status pursuant to petitions described
19 in section 101(e), and the number of dependent
20 spouses and children who were granted H-4 status.

21 **SEC. 41314. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
22 **CANTS.**

23 (a) ESTABLISHMENT.—The Secretary shall establish
24 a program to award grants, on a competitive basis, to eli-
25 gible nonprofit organizations to assist eligible applicants

1 under this title by providing them with the services de-
2 scribed in subsection (c).

3 (b) ELIGIBLE NONPROFIT ORGANIZATION.—For
4 purposes of this section, the term “eligible nonprofit orga-
5 nization” means an organization described in section
6 501(c)(3) of the Internal Revenue Code of 1986 (exclud-
7 ing a recipient of funds under title X of the Economic
8 Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that
9 has demonstrated qualifications, experience, and expertise
10 in providing quality services to farm workers or aliens.

11 (c) USE OF FUNDS.—Grant funds awarded under
12 this section may be used for the design and implementa-
13 tion of programs that provide—

14 (1) information to the public regarding the eli-
15 gibility and benefits of certified agricultural worker
16 status authorized under this title; and

17 (2) assistance, within the scope of authorized
18 practice of immigration law, to individuals submit-
19 ting applications for certified agricultural worker
20 status or adjustment of status under this title, in-
21 cluding—

22 (A) screening prospective applicants to as-
23 sess their eligibility for such status;

1 (B) completing applications, including pro-
2 viding assistance in obtaining necessary docu-
3 ments and supporting evidence; and

4 (C) providing any other assistance that the
5 Secretary determines useful to assist aliens in
6 applying for certified agricultural worker status
7 or adjustment of status under this title.

8 (d) SOURCE OF FUNDS.—In addition to any funds
9 appropriated to carry out this section, the Secretary may
10 use up to \$10,000,000 from the Immigration Examina-
11 tions Fee Account under section 286(m) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1356(m)) to carry out
13 this section.

14 (e) ELIGIBILITY FOR SERVICES.—Section 504(a)(11)
15 of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall
16 not be construed to prevent a recipient of funds under title
17 X of the Economic Opportunity Act of 1964 (42 U.S.C.
18 2996 et seq.) from providing legal assistance directly re-
19 lated to an application for status under this title or to
20 an alien granted such status.

21 **SEC. 41315. AUTHORIZATION OF APPROPRIATIONS.**

22 There is authorized to be appropriated to the Sec-
23 retary, such sums as may be necessary to implement this
24 title, including any amounts needed for costs associated

1 with the initiation of such implementation, for each of fis-
2 cal years 2024 through 2026.

3 **TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR**
4 **CULTURAL WORKFORCE FOR**
5 **THE FUTURE**

6 **Subtitle A—Reforming the H-2A**
7 **Worker Program**

8 **SEC. 42101. COMPREHENSIVE AND STREAMLINED ELECTRONIC H-2A PLATFORM.**
9

10 (a) STREAMLINED H-2A PLATFORM.—

11 (1) IN GENERAL.—Not later than 12 months
12 after the date of the enactment of this Act, the Sec-
13 retary of Homeland Security, in consultation with
14 the Secretary of Labor, the Secretary of Agriculture,
15 the Secretary of State, and the United States Dig-
16 ital Service, shall ensure the establishment of an
17 electronic platform through which a petition for an
18 H-2A worker may be filed. Such platform shall—

19 (A) serve as a single point of access for an
20 employer to input all information and sup-
21 porting documentation required for obtaining
22 labor certification from the Secretary of Labor
23 and the adjudication of the H-2A petition by
24 the Secretary of Homeland Security;

1 (B) serve as a single point of access for the
2 Secretary of Homeland Security, the Secretary
3 of Labor, and State workforce agencies to con-
4 currently perform their respective review and
5 adjudicatory responsibilities in the H-2A proc-
6 ess;

7 (C) facilitate communication between em-
8 ployers and agency adjudicators, including by
9 allowing employers to—

10 (i) receive and respond to notices of
11 deficiency and requests for information;

12 (ii) submit requests for inspections
13 and licensing;

14 (iii) receive notices of approval and
15 denial; and

16 (iv) request reconsideration or appeal
17 of agency decisions; and

18 (D) provide information to the Secretary of
19 State and U.S. Customs and Border Protection
20 necessary for the efficient and secure processing
21 of H-2A visas and applications for admission.

22 (2) OBJECTIVES.—In developing the platform
23 described in paragraph (1), the Secretary of Home-
24 land Security, in consultation with the Secretary of
25 Labor, the Secretary of Agriculture, the Secretary of

1 State, and the United States Digital Service, shall
2 streamline and improve the H-2A process, including
3 by—

4 (A) eliminating the need for employers to
5 submit duplicate information and documenta-
6 tion to multiple agencies;

7 (B) eliminating redundant processes, where
8 a single matter in a petition is adjudicated by
9 more than one agency;

10 (C) reducing the occurrence of common pe-
11 tition errors, and otherwise improving and expe-
12 diting the processing of H-2A petitions; and

13 (D) ensuring compliance with H-2A pro-
14 gram requirements and the protection of the
15 wages and working conditions of workers.

16 (b) ONLINE JOB REGISTRY.—The Secretary of Labor
17 shall maintain a national, publicly accessible online job
18 registry and database of all job orders submitted by H-
19 2A employers. The registry and database shall—

20 (1) be searchable using relevant criteria, includ-
21 ing the types of jobs needed to be filled, the date(s)
22 and location(s) of need, and the employer(s) named
23 in the job order;

1 (2) provide an interface for workers in English,
2 Spanish, and any other language that the Secretary
3 of Labor determines to be appropriate; and

4 (3) provide for public access of job orders ap-
5 proved under section 218(h)(2) of the Immigration
6 and Nationality Act.

7 **SEC. 42102. AGRICULTURAL LABOR OR SERVICES.**

8 (a) DEFINITION.—Section 101(a) of the Immigration
9 and Nationality Act (8 U.S.C. 1101(a)), as amended by
10 section 8101, is further amended by adding at the end
11 the following:

12 “(54) The term ‘agricultural labor or services’
13 has the meaning given such term by the Secretary
14 of Agriculture in regulations and includes—

15 “(A) agricultural labor (as such term is de-
16 fined in section 3121(g) of the Internal Rev-
17 enue Code of 1986) except as described in sub-
18 section (g)(4) of such section;

19 “(B) agriculture (as such term is defined
20 in section 3(f) of the Fair Labor Standards Act
21 of 1938 (29 U.S.C. 203(f))), except that the re-
22 quirement that such work be performed by a
23 farmer or on a farm as an incident to or in con-
24 junction with such farming operations shall not
25 apply if such work is being performed at the di-

1 rection of and as incident to or in conjunction
2 with the farmers' farming operation;

3 “(C) agricultural employment (as such
4 term is defined in section 3 of the Migrant and
5 Seasonal Worker Protection Act (29 U.S.C.
6 1802));

7 “(D) the handling, planting, drying, pack-
8 ing, packaging, processing, freezing, or grading
9 prior to delivery for storage of any agricultural
10 or horticultural commodity in its unmanufac-
11 tured state;

12 “(E) all activities required for the prepara-
13 tion, processing or manufacturing, for further
14 distribution, of—

15 “(i) a product of agriculture (as such
16 term is defined in such section 3(f));

17 “(ii) a product of aquaculture; or

18 “(iii) wild-caught fish or shellfish;

19 “(F) pressing of apples for cider on a
20 farm;

21 “(G) activities related to the management
22 and training of equines; and

23 “(H) performing any of the activities de-
24 scribed in this paragraph for an agricultural
25 employer (as such term is defined in paragraph

1 (2) of section 3 of the Migrant and Seasonal
2 Worker Protection Act (29 U.S.C. 1802), in-
3 cluding an agricultural cooperative, except that
4 for purposes of this subparagraph, the limita-
5 tions described in paragraphs (8)(B)(ii) and
6 (10)(B)(iii) shall not apply),
7 except that in regard to labor or services consisting
8 of meat or poultry processing, the term ‘agricultural
9 labor or services’ only includes the killing of animals
10 and the breakdown of their carcasses.”.

11 (b) CONFORMING AMENDMENTS.—The Immigration
12 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

13 (1) in section 101(a)(15)(H), by striking “, as
14 defined by the Secretary of Labor in regulations and
15 including agricultural labor defined in section
16 3121(g) of the Internal Revenue Code of 1986, agri-
17 culture as defined in section 3(f) of the Fair Labor
18 Standards Act of 1938 (29 U.S.C. 203(f)), and the
19 pressing of apples for cider on a farm, of a tem-
20 porary or seasonal nature”;

21 (2) in section 218(d)(2), by striking “of a tem-
22 porary or seasonal nature”.

23 **SEC. 42103. H-2A PROGRAM REQUIREMENTS.**

24 Section 218 of the Immigration and Nationality Act
25 (8 U.S.C. 1188) is amended—

1 (1) in subsection (c), by striking paragraph (4);

2 (2) by redesignating subsection (i) as subsection

3 (p);

4 (3) by inserting after subsection (h) the fol-

5 lowing:

6 “(i) WAGE REQUIREMENTS.—Each employer under

7 this section will offer the worker, during the period of au-

8 thorized employment, wages that are at least the greatest

9 of—

10 “(1) 125 percent of the Federal minimum

11 wage; or

12 “(2) the applicable State or local minimum

13 wage.

14 “(j) HOUSING REQUIREMENTS.—Employers shall

15 furnish housing in accordance with regulations established

16 by the Secretary of Labor. Such regulations shall be con-

17 sistent with the following:

18 “(1) IN GENERAL.—The employer shall provide

19 housing meeting applicable State, Federal, and local

20 standards, or secure housing which meets the local

21 standards for rental and/or public accommodations

22 or other substantially similar class of habitation.

23 “(2) FAMILY HOUSING.—The employer shall

24 provide family housing to workers with families who

25 request it when it is the prevailing practice in the

1 area and occupation of intended employment to pro-
2 vide family housing.

3 “(3) UNITED STATES WORKERS.—Notwith-
4 standing paragraphs (1) and (2), an employer is not
5 required to provide housing to United States work-
6 ers who are reasonably able to return to their resi-
7 dence within the same day.

8 “(4) TIMING OF INSPECTION.—

9 “(A) IN GENERAL.—The Secretary of
10 Labor or designee shall make a determination
11 as to whether the housing furnished by an em-
12 ployer for a worker meets the requirements im-
13 posed by this subsection prior to the date on
14 which the Secretary of Labor is required to
15 make a certification with respect to a petition
16 for the admission of such worker.

17 “(B) TIMELY INSPECTION.—The Secretary
18 of Labor shall provide a process for—

19 “(i) an employer to request inspection
20 of housing up to 60 days before the date
21 on which the employer will file a petition
22 under this section; and

23 “(ii) biennial inspection of housing for
24 workers who are engaged in agricultural
25 employment.

1 “(k) TRANSPORTATION REQUIREMENTS.—

2 “(1) TRAVEL TO PLACE OF EMPLOYMENT.—A
3 worker who completes 50 percent of the period of
4 employment specified in the job order shall be reim-
5 bursed by the employer for the cost of the worker’s
6 transportation and subsistence from the place from
7 which the worker came to work for the employer (or
8 place of last employment, if the worker traveled
9 from such place) to the place of employment.

10 “(2) TRAVEL FROM PLACE OF EMPLOYMENT.—

11 For a worker who completes the period of employ-
12 ment specified in the job order or who is terminated
13 without cause, the employer shall provide or pay for
14 the worker’s transportation and subsistence from the
15 place of employment to the place from which the
16 worker, disregarding intervening employment, came
17 to work for the employer, or to the place of next em-
18 ployment, if the worker has contracted with a subse-
19 quent employer who has not agreed to provide or
20 pay for the worker’s transportation and subsistence
21 to such subsequent employer’s place of employment.

22 “(3) LIMITATION.—

23 “(A) AMOUNT OF REIMBURSEMENT.—Ex-
24 cept as provided in subparagraph (B), the
25 amount of reimbursement provided under para-

1 graph (1) or (2) to a worker need not exceed
2 the lesser of—

3 “(i) the actual cost to the worker of
4 the transportation and subsistence in-
5 volved; or

6 “(ii) the most economical and reason-
7 able common carrier transportation
8 charges and subsistence costs for the dis-
9 tance involved.

10 “(B) DISTANCE TRAVELED.—For travel to
11 or from the worker’s home country, if the travel
12 distance between the worker’s home and the rel-
13 evant consulate is 50 miles or less, reimburse-
14 ment for transportation and subsistence may be
15 based on transportation to or from the con-
16 sulate.

17 “(1) ELIGIBILITY FOR H-2A STATUS AND ADMISSION
18 TO THE UNITED STATES.—

19 “(1) VISA VALIDITY.—A visa issued to an H-
20 2A worker shall be valid for 3 years and shall allow
21 for multiple entries during the approved period of
22 admission.

23 “(2) PERIOD OF AUTHORIZED STAY; ADMIS-
24 SION.—

1 “(A) IN GENERAL.—An alien admissible as
2 an H–2A worker shall be authorized to stay in
3 the United States for the period of employment
4 specified in the petition approved by the Sec-
5 retary of Homeland Security under this section.
6 The maximum continuous period of authorized
7 stay for an H–2A worker is 36 months.

8 “(B) REQUIREMENT TO REMAIN OUTSIDE
9 THE UNITED STATES.—In the case of an H–2A
10 worker whose maximum continuous period of
11 authorized stay (including any extensions) has
12 expired, the alien may not again be eligible for
13 such stay until the alien remains outside the
14 United States for a cumulative period of at
15 least 45 days.

16 “(C) EXCEPTIONS.—The Secretary of
17 Homeland Security shall deduct absences from
18 the United States that take place during an H–
19 2A worker’s period of authorized stay from the
20 period that the alien is required to remain out-
21 side the United States under subparagraph (B),
22 if the alien or the alien’s employer requests
23 such a deduction, and provides clear and con-
24 vincing proof that the alien qualifies for such a
25 deduction. Such proof shall consist of evidence

1 including, but not limited to, arrival and depart-
2 ture records, copies of tax returns, and records
3 of employment abroad.

4 “(D) ADMISSION.—In addition to the max-
5 imum continuous period of authorized stay, an
6 H–2A worker’s authorized period of admission
7 shall include an additional period of 10 days
8 prior to the beginning of the period of employ-
9 ment for the purpose of traveling to the place
10 of employment and 45 days at the end of the
11 period of employment for the purpose of trav-
12 eling home or seeking an extension of status
13 based on a subsequent offer of employment if
14 the worker has not reached the maximum con-
15 tinuous period of authorized stay under sub-
16 paragraph (A) (subject to the exceptions in sub-
17 paragraph (C)).

18 “(3) CONTINUING H–2A WORKERS.—

19 “(A) SUCCESSIVE EMPLOYMENT.—An H–
20 2A worker is authorized to start new or concu-
21 rent employment upon the filing of a nonfrivo-
22 lous H–2A petition, or as of the requested start
23 date, whichever is later if—

24 “(i) the petition to start new or con-
25 current employment was filed prior to the

1 expiration of the H-2A worker's period of
2 admission as defined in paragraph (2)(D);
3 and

4 “(ii) the H-2A worker has not been
5 employed without authorization in the
6 United States from the time of last admis-
7 sion to the United States in H-2A status
8 through the filing of the petition for new
9 employment.

10 “(B) PROTECTION DUE TO IMMIGRANT
11 VISA BACKLOGS.—Notwithstanding the limita-
12 tions on the period of authorized stay described
13 in paragraph (3), any H-2A worker who—

14 “(i) is the beneficiary of an approved
15 petition, filed under section 204(a)(1)(E)
16 or (F) for preference status under section
17 203(b)(3)(A)(iii); and

18 “(ii) is eligible to be granted such sta-
19 tus but for the annual limitations on visas
20 under section 203(b)(3)(A),

21 may apply for, and the Secretary of Homeland
22 Security may grant, an extension of such non-
23 immigrant status until the Secretary of Home-
24 land Security issues a final administrative deci-
25 sion on the alien's application for adjustment of

1 status or the Secretary of State issues a final
2 decision on the alien's application for an immi-
3 grant visa.

4 “(m) H-2A PETITION PROCEDURES.—

5 “(1) IN GENERAL.—The employer shall submit
6 information required for the adjudication of the H-
7 2A petition, including a job order, through the elec-
8 tronic platform no more than 75 calendar days and
9 no fewer than 60 calendar days before the employ-
10 er's first date of need specified in the petition.

11 “(2) FILING BY AGRICULTURAL ASSOCIA-
12 TIONS.—An association of agricultural producers
13 that use agricultural services may file an H-2A peti-
14 tion under paragraph (1). If an association is a joint
15 or sole employer of workers who perform agricul-
16 tural labor or services, H-2A workers may be used
17 for the approved job opportunities of any of the as-
18 sociation's producer members and such workers may
19 be transferred among its producer members to per-
20 form the agricultural labor or services for which the
21 petition was approved.

22 “(3) PETITIONS INVOLVING STAGGERED
23 ENTRY.—An employer may file a petition involving
24 employment in the same occupational classification

1 and same area of intended employment with multiple
2 start dates if—

3 “(A) the petition involves no more than 10
4 start dates;

5 “(B) the multiple start dates share a com-
6 mon end date;

7 “(C) no more than 120 days separate the
8 first start date and the final start date listed in
9 the petition; and

10 “(D) the need for multiple start dates
11 arises from variations in labor needs associated
12 with the job opportunity identified in the peti-
13 tion.

14 “(4) POST-CERTIFICATION AMENDMENTS.—The
15 Secretary of Labor shall provide a process for
16 amending a request for labor certification in con-
17 junction with an H-2A petition, subsequent to cer-
18 tification by the Secretary of Labor, in cases in
19 which the requested amendment does not materially
20 change the petition (including the job order).

21 “(n) SPECIAL PROCEDURES.—

22 “(1) IN GENERAL.—The Secretary of Labor, in
23 consultation with the Secretary of Agriculture and
24 the Secretary of Homeland Security, may by regula-
25 tion establish alternate procedures that reasonably

1 modify program requirements under this section, in-
2 cluding for special procedures industries, when the
3 Secretary determines that such modifications are re-
4 quired due to the unique nature of the work in-
5 volved.

6 “(2) ALLERGY LIMITATION.—An employer en-
7 gaged in the commercial beekeeping or pollination
8 services industry may require that an applicant be
9 free from bee pollen, venom, or other bee-related al-
10 lergies.

11 “(3) SPECIAL PROCEDURES INDUSTRIES.—

12 “(A) APPLICATION.—An individual em-
13 ployer in a special procedures industry may file
14 a program petition on its own behalf or in con-
15 junction with an association of employers. The
16 employer’s petition may be part of several re-
17 lated petitions submitted simultaneously that
18 constitute a master petition.

19 “(B) SPECIAL PROCEDURES INDUSTRY DE-
20 FINED.—In this subsection, the term ‘special
21 procedures industry’ means—

22 “(i) shepherding and goat herding;

23 “(ii) itinerant commercial beekeeping
24 and pollination;

1 “(iii) open range production of live-
2 stock;

3 “(iv) itinerant animal shearing; and

4 “(v) custom combining industries.”;

5 and

6 (4) in subsection (p), as so redesignated, by
7 adding at the end the following:

8 “(3) TEMPORARILY.—The term ‘temporarily’
9 means a period not exceeding 350 days.

10 “(4) JOB ORDER.—The term ‘job order’ means
11 the document containing the material terms and
12 conditions of employment, including obligations and
13 assurances required under this section or any other
14 law.”.

15 **SEC. 42104. PORTABLE H-2A VISA PILOT PROGRAM.**

16 (a) ESTABLISHMENT OF PILOT PROGRAM.—

17 (1) IN GENERAL.—Not later than 18 months
18 after the date of the enactment of this Act, the Sec-
19 retary of Homeland Security, in consultation with
20 the Secretary of Labor and the Secretary of Agri-
21 culture, shall establish through regulation a 6-year
22 pilot program to facilitate the free movement and
23 employment of H-2A workers to perform agricul-
24 tural labor or services for agricultural employers
25 registered with the Secretary of Agriculture. Not-

1 withstanding the requirements of section 218 of the
2 Immigration and Nationality Act, such regulation
3 shall establish the requirements for the pilot pro-
4 gram, consistent with subsection (b). For purposes
5 of this section, such a worker shall be referred to as
6 a portable H–2A worker, and status as such a work-
7 er shall be referred to as portable H–2A status.

8 (2) ONLINE PLATFORM.—The Secretary of
9 Homeland Security, in consultation with the Sec-
10 retary of Labor and the Secretary of Agriculture,
11 shall maintain an online electronic platform to con-
12 nect portable H–2A workers with registered agricul-
13 tural employers seeking workers to perform agricul-
14 tural labor or services. Employers shall post on the
15 platform available job opportunities, including a de-
16 scription of the nature and location of the work to
17 be performed, the anticipated period or periods of
18 need, and the terms and conditions of employment.
19 Such platform shall allow portable H–2A workers to
20 search for available job opportunities using relevant
21 criteria, including the types of jobs needed to be
22 filled and the dates and locations of need.

23 (3) LIMITATION.—Notwithstanding the
24 issuance of the regulation described in paragraph
25 (1), the Secretary of State may not issue a portable

1 H-2A visa and the Secretary of Homeland Security
2 may not confer portable H-2A status on any alien
3 until the Secretary of Homeland Security, in con-
4 sultation with the Secretary of Labor and the Sec-
5 retary of Agriculture, has determined that a suffi-
6 cient number of employers have been designated as
7 registered agricultural employers under subsection
8 (b)(1) and that such employers have sufficient job
9 opportunities to employ a reasonable number of
10 portable H-2A workers to initiate the pilot program.

11 (b) PILOT PROGRAM ELEMENTS.—The pilot program
12 in subsection (a) shall contain the following elements:

13 (1) REGISTERED AGRICULTURAL EMPLOY-
14 ERS.—

15 (A) DESIGNATION.—Agricultural employ-
16 ers shall be provided the ability to seek designa-
17 tion as registered agricultural employers. Rea-
18 sonable fees may be assessed commensurate
19 with the cost of processing applications for des-
20 ignation. A designation shall be valid for a pe-
21 riod of up to 3 years unless revoked for failure
22 to comply with program requirements. Reg-
23 istered employers that comply with program re-
24 quirements may apply to renew such designa-

1 tion for additional periods of up to 3 years for
2 the duration of the pilot program.

3 (B) LIMITATIONS.—Registered agricultural
4 employers may employ aliens with portable H–
5 2A status without filing a petition. Such em-
6 ployers shall pay such aliens at least the wage
7 required under section 218(d) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1188(d)).

9 (C) WORKERS’ COMPENSATION.—If a job
10 opportunity is not covered by or is exempt from
11 the State workers’ compensation law, a reg-
12 istered agricultural employer shall provide, at
13 no cost to the worker, insurance covering injury
14 and disease arising out of, and in the course of,
15 the worker’s employment, which will provide
16 benefits at least equal to those provided under
17 the State workers’ compensation law.

18 (2) DESIGNATED WORKERS.—

19 (A) IN GENERAL.—Individuals who have
20 been previously admitted to the United States
21 in H–2A status, and maintained such status
22 during the period of admission, shall be pro-
23 vided the opportunity to apply for portable H–
24 2A status. Portable H–2A workers shall be sub-
25 ject to the provisions on visa validity and peri-

1 ods of authorized stay and admission for H–2A
2 workers described in paragraphs (2) and (3) of
3 section 218(j) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1188(j)(2) and (3)).

5 (B) LIMITATIONS ON AVAILABILITY OF
6 PORTABLE H–2A STATUS.—

7 (i) INITIAL OFFER OF EMPLOYMENT
8 REQUIRED.—No alien may be granted
9 portable H–2A status without an initial
10 valid offer of employment to perform tem-
11 porary or agricultural labor or services
12 from a registered agricultural employer.

13 (ii) NUMERICAL LIMITATION.—The
14 total number of aliens who may hold valid
15 portable H–2A status at any one time may
16 not exceed 10,000.

17 (C) SCOPE OF EMPLOYMENT.—During the
18 period of admission, a portable H–2A worker
19 may perform agricultural labor or services for
20 any employer in the United States that is des-
21 ignated as a registered agricultural employer
22 pursuant to paragraph (1). An employment ar-
23 rangement under this section may be termi-
24 nated by either the portable H–2A worker or

1 the registered agricultural employer at any
2 time.

3 (D) TRANSFER TO NEW EMPLOYMENT.—

4 At the cessation of employment with a reg-
5 istered agricultural employer, a portable H-2A
6 worker shall have 60 days to secure new em-
7 ployment with a registered agricultural em-
8 ployer.

9 (E) MAINTENANCE OF STATUS.—A port-
10 able H-2A worker who does not secure new em-
11 ployment with a registered agricultural em-
12 ployer within 60 days shall be considered to
13 have failed to maintain such status and shall
14 depart the United States or be subject to re-
15 moval under section 237(a)(1)(C)(i) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1188(a)(1)(C)(i)).

18 (3) ENFORCEMENT.—The Secretary of Labor
19 shall be responsible for conducting investigations
20 and random audits of employers to ensure compli-
21 ance with the employment-related requirements of
22 this section, consistent with section 218(m) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1188(m)). The Secretary of Labor shall have the au-
25 thority to collect reasonable civil penalties for viola-

1 tions, which shall be utilized by the Secretary for the
2 administration and enforcement of the provisions of
3 this section.

4 (4) ELIGIBILITY FOR SERVICES.—Section 305
5 of Public Law 99–603 (100 Stat. 3434) is amended
6 by striking “other employment rights as provided in
7 the worker’s specific contract under which the non-
8 immigrant was admitted” and inserting “employ-
9 ment-related rights”.

10 (c) REPORT.—Not later than 6 months before the
11 end of the third fiscal year of the pilot program, the Sec-
12 retary of Homeland Security, in consultation with the Sec-
13 retary of Labor and the Secretary of Agriculture, shall
14 prepare and submit to the Committees on the Judiciary
15 of the House of Representatives and the Senate, a report
16 that provides—

17 (1) the number of employers designated as reg-
18 istered agricultural employers, broken down by geo-
19 graphic region, farm size, and the number of job op-
20 portunities offered by such employers;

21 (2) the number of employers whose designation
22 as a registered agricultural employer was revoked;

23 (3) the number of individuals granted portable
24 H–2A status in each fiscal year, along with the
25 number of such individuals who maintained portable

1 H-2A status during all or a portion of the 3-year
2 period of the pilot program;

3 (4) an assessment of the impact of the pilot
4 program on the wages and working conditions of
5 United States farm workers;

6 (5) the results of a survey of individuals grant-
7 ed portable H-2A status, detailing their experiences
8 with and feedback on the pilot program;

9 (6) the results of a survey of registered agricul-
10 tural employers, detailing their experiences with and
11 feedback on the pilot program;

12 (7) an assessment as to whether the program
13 should be continued and if so, any recommendations
14 for improving the program; and

15 (8) findings and recommendations regarding ef-
16 fective recruitment mechanisms, including use of
17 new technology to match workers with employers
18 and ensure compliance with applicable labor and em-
19 ployment laws and regulations.

20 **SEC. 42105. PILOT PROGRAM PROVIDING FORESTRY EM-**
21 **LOYERS THE OPTION OF USING THE H-2A**
22 **PROGRAM OR THE H-2B PROGRAM.**

23 (a) TIME PERIOD.—For the 3-year period following
24 the date of enactment this Act, an employer engaged in
25 forestry-and conservation-related services shall have, in

1 any calendar year and at the employer's sole discretion,
2 the option to participate in either the program described
3 at 101(a)(15)(H)(ii)(a) of such Act (8 U.S.C.
4 1101(a)(15)(H)(ii)(a)) or the program described at
5 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C.
6 1101(a)(15)(H)(ii)(b)).

7 (b) RULEMAKING.—After the expiration of the time
8 period specified in subsection (a), the Secretary of Labor,
9 in consultation with the Secretary of Agriculture, shall
10 make a rule determining whether employers engaged in
11 forestry-and conservation-related services shall be in the
12 future classified in the program described in section
13 101(a)(15)(H)(ii)(a) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(15)(H)(ii)(a), or the program de-
15 scribed at 101(a)(15)(H)(ii)(b) of such Act (8 U.S.C.
16 1101(a)(15)(H)(ii)(b), or both.

17 (c) EXTENSION.—The time period described in sub-
18 section (a) shall be extended until such time as the regula-
19 tions promulgated pursuant to subsection (b) are in effect.

20 (d) CONDITIONS.—An employer engaged in forestry-
21 and conservation-related services shall be permitted to em-
22 ploy nonimmigrant workers under the following condi-
23 tions:

24 (1) ITINERARIES.—In either the program de-
25 scribed at Section 101(a)(15)(H)(ii)(a) of such Act

1 (8 U.S.C. 1101(a)(15)(H)(ii)(a)) or the program de-
2 scribed at 101(a)(15)(H)(ii)(b) of such Act (8
3 U.S.C. 1101(a)(15)(H)(ii)(b)), the employer may
4 use an itinerary listing worksites that may encom-
5 pass multiple areas of intended employment without
6 limitation as to the number of worksites, States, or
7 areas of intended employment.

8 (2) APPLICABLE WAGE.—

9 (A) H-2A.—In the program described in
10 section 101(a)(15)(H)(ii)(a) of such Act (8
11 U.S.C. 1101(a)(15)(H)(ii)(a)), an employer
12 shall not be required to pay at any location a
13 wage higher than the wage described in section
14 218 of the Immigration and Nationality Act (8
15 U.S.C. 1188), as amended by section 42103 of
16 this Act, for described work at that location.

17 (B) H-2B.—In the program described at
18 section 101(a)(15)(H)(ii)(b) of such Act (8
19 U.S.C. 1101(a)(15)(H)(ii)(b)), an employer
20 shall not be required to pay at any location a
21 wage higher than the prevailing wage applicable
22 to the described work at that location.

23 (3) HOUSING.—In either the program described
24 at section 101(a)(15)(H)(ii)(a) of such Act (8
25 U.S.C. 1101(a)(15)(H)(ii)(a)) or the program de-

1 scribed at 101(a)(15)(H)(ii)(b) of such Act (8
2 U.S.C. 1101(a)(15)(H)(ii)(b)), the employer may, if
3 the employer arranges for or provides housing for its
4 employees, use public accommodation housing or
5 lodging that is otherwise provided on a commercial
6 basis to the general public, and such housing or
7 lodging shall not be subject to any federally-man-
8 dated inspection or approvals beyond the local or
9 State standards otherwise applicable to public ac-
10 commodation housing or lodging provided to the
11 general public.

12 (e) FORESTRY- AND CONSERVATION-RELATED SERV-
13 ICES DEFINED.—The term “forestry- and conservation-re-
14 lated services” includes tree planting, timber stand im-
15 provements, timber harvesting, logging operations, brush
16 clearing, vegetation management, herbicide application,
17 the maintenance of rights of way (including for roads,
18 trails, and utilities, and regardless of whether such right
19 of-way is on forest land), pruning, seedling lifting, har-
20 vesting and packaging, and the harvesting of pine straw
21 and other minor forest products, orchard work and seed
22 collection, and fire prevention and management activities.

1 **DIVISION E—AMERICAN PROS-**
2 **PERITY AND COMPETITIVE-**
3 **NESS**

4 **SEC. 51001. SHORT TITLE.**

5 This division may be cited as the “American Pros-
6 perity and Competitiveness Act”.

7 **TITLE I—PROTECTING THE**
8 **FAMILY SYSTEM**
9 **Subtitle A—American Families**
10 **United Act**

11 **SEC. 51101. RULE OF CONSTRUCTION.**

12 Nothing in this division shall be construed—

13 (1) to provide the Secretary of Homeland Secu-
14 rity or the Attorney General with the ability to exer-
15 cise the discretionary authority provided in this divi-
16 sion, or by an amendment made by this division, ex-
17 cept on a case-by-case basis; or

18 (2) to otherwise modify or limit the discre-
19 tionary authority of the Secretary of Homeland Se-
20 curity or the Attorney General under the immigra-
21 tion laws (as defined in section 101(a)(17) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1101(a)(17))).

1 **SEC. 51102. DISCRETIONARY AUTHORITY WITH RESPECT TO**
2 **FAMILY MEMBERS OF UNITED STATES CITI-**
3 **ZENS.**

4 (a) APPLICATIONS FOR RELIEF FROM REMOVAL.—
5 Section 240(c)(4) of the Immigration and Nationality Act
6 (8 U.S.C. 1229a(c)(4)) is amended by adding at the end
7 the following:

8 “(D) JUDICIAL DISCRETION.—

9 “(i) IN GENERAL.—In the case of an
10 alien who is the spouse or child of a citizen
11 of the United States, the Attorney General
12 may subject to clause (ii)—

13 “(I) terminate any removal pro-
14 ceedings against the alien;

15 “(II) decline to order the alien
16 removed from the United States;

17 “(III) grant the alien permission
18 to reapply for admission to the United
19 States; or

20 “(IV) subject to clause (iii),
21 waive the application of one or more
22 grounds of inadmissibility or deport-
23 ability in connection with any request
24 for relief from removal.

25 “(ii) LIMITATION ON DISCRETION.—

1 “(I) IN GENERAL.—The Attorney
2 General may exercise the discretion
3 described in clause (i) if the Attorney
4 General determines that removal of
5 the alien or the denial of a request for
6 relief from removal would result in
7 hardship to the alien’s United States
8 citizen spouse, parent, or child. There
9 shall be a presumption that family
10 separation constitutes hardship.

11 “(II) WIDOW AND SURVIVING
12 CHILD OF DECEASED UNITED STATES
13 CITIZEN.—In the case of the death of
14 a citizen of the United States, the At-
15 torney General may exercise discretion
16 described in clause (i) with respect to
17 an alien who was a child of such citi-
18 zen, or was the spouse of such citizen
19 and was not legally separated from
20 such citizen on the date of the citi-
21 zen’s death, if—

22 “(aa) the Attorney General
23 determines that removal of the
24 child or spouse or the denial of a
25 requested benefit would result in

1 hardship to the child or spouse;
2 and

3 “(bb) the child or spouse
4 seeks relief requiring such discre-
5 tion not later than two years
6 after the date of the citizen’s
7 death or demonstrates to the sat-
8 isfaction of the Attorney General
9 the existence of extraordinary cir-
10 cumstances that prevented the
11 spouse or child from seeking re-
12 lief within such period.

13 “(iii) EXCLUSIONS.—This subpara-
14 graph shall not apply to an alien whom the
15 Attorney General determines—

16 “(I) is inadmissible under—

17 “(aa) paragraph (2) or (3)
18 of section 212(a); or

19 “(bb) subparagraph (A),
20 (C), or (D) of section 212(a)(10);
21 or

22 “(II) is deportable under para-
23 graph (2), (4), or (6) of section
24 237(a).”.

1 (b) SECRETARY'S DISCRETION.—Section 212 of the
2 Immigration and Nationality Act (8 U.S.C. 1182) is
3 amended—

4 (1) by redesignating the second subsection (t)
5 as subsection (u); and

6 (2) by adding at the end the following:

7 “(u) SECRETARY'S DISCRETION.—

8 “(1) IN GENERAL.—In the case of an alien who
9 is the spouse or child of a citizen of the United
10 States, the Secretary of Homeland Security may,
11 subject to paragraph (2)—

12 “(A) waive the application of one or more
13 grounds of inadmissibility or deportability in
14 connection with an application for an immigra-
15 tion benefit or request for relief from removal;

16 “(B) decline to issue a notice to appear or
17 other charging document requiring such an
18 alien to appear for removal proceedings;

19 “(C) decline to reinstate an order of re-
20 moval under section 241(a)(5); or

21 “(D) grant such alien permission to re-
22 apply for admission to the United States or any
23 other application for an immigration benefit.

24 “(2) LIMITATION ON DISCRETION.—

1 “(A) IN GENERAL.—The Secretary of
2 Homeland Security may exercise discretion de-
3 scribed in paragraph (1) if the Secretary deter-
4 mines that removal of the alien or the denial of
5 a requested benefit would result in hardship to
6 the alien’s United States citizen spouse, parent,
7 or child. There shall be a presumption that
8 family separation constitutes hardship.

9 “(B) WIDOW AND ORPHAN OF DECEASED
10 UNITED STATES CITIZEN.—In the case of the
11 death of a citizen of the United States, the Sec-
12 retary of Homeland Security may exercise dis-
13 cretion described in paragraph (1) with respect
14 to an alien who was a child of such citizen, or
15 was the spouse of such citizen and was not le-
16 gally separated from such citizen on the date of
17 the citizen’s death, if—

18 “(i) the Secretary determines that the
19 denial of a requested benefit would result
20 in hardship to the child or spouse; and

21 “(ii) the child or spouse seeks relief
22 requiring such discretion not later than
23 two years after the date of the citizen’s
24 death or demonstrates to the satisfaction
25 of the Secretary the existence of extraor-

1 dinary circumstances that prevented the
2 spouse or child from seeking relief within
3 such period.

4 “(3) EXCLUSIONS.—This subsection shall not
5 apply to an alien whom the Secretary determines—

6 “(A) is inadmissible under—

7 “(i) paragraph (2) or (3) of sub-
8 sections (a); or

9 “(ii) subparagraphs (A), (C), or (D)
10 of subsection (a)(10); or

11 “(B) is deportable under paragraphs (2),
12 (4), or (6) of section 237(a).”.

13 (c) NATIONALITY AT BIRTH AND COLLECTIVE NATU-
14 RALIZATION.—Section 301(g) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1401(g)) is amended by striking
16 “for a period or periods totaling not less than five years,
17 at least two of which were after attaining the age of four-
18 teen years”.

19 **SEC. 51103. MOTIONS TO REOPEN OR RECONSIDER.**

20 (a) IN GENERAL.—A motion to reopen or reconsider
21 the denial of a petition or application or an order of re-
22 moval for an alien may be granted if such petition, appli-
23 cation, or order would have been adjudicated in favor of
24 the alien had this division, or an amendment made by this
25 division, been in effect at the time of such denial or order.

1 (b) FILING REQUIREMENT.—A motion under sub-
2 section (a) shall be filed no later than the date that is
3 2 years after the date of the enactment of this division,
4 unless the alien demonstrates to the satisfaction of the
5 Secretary of Homeland Security or Attorney General, as
6 appropriate, the existence of extraordinary circumstances
7 that prevented the alien from filing within such period.

8 **Subtitle B—Temporary Family**
9 **Visitation Act**

10 **SEC. 51111. FAMILY PURPOSE NONIMMIGRANT VISAS FOR**
11 **RELATIVES OF UNITED STATES CITIZENS**
12 **AND LAWFUL PERMANENT RESIDENTS SEEK-**
13 **ING TO ENTER THE UNITED STATES TEMPO-**
14 **RARILY.**

15 (a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA
16 CATEGORY.—Section 101(a)(15)(B) of the Immigration
17 and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amend-
18 ed by striking “and who is visiting the United States tem-
19 porarily for business or temporarily for pleasure;” and in-
20 serting “and who is visiting the United States temporarily
21 for—

22 “(i) business;

23 “(ii) pleasure; or

24 “(iii) family purposes;”.

1 (b) REQUIREMENTS APPLICABLE TO FAMILY PUR-
2 POSE VISAS.—Section 214 of the Immigration and Na-
3 tionality Act (8 U.S.C. 1184) is amended by adding at
4 the end the following:

5 “(s) REQUIREMENTS APPLICABLE TO FAMILY PUR-
6 POSE VISAS.—

7 “(1) DEFINITIONS.—In this subsection and sec-
8 tion 101(a)(15)(B)(iii):

9 “(A) FAMILY PURPOSES.—The term ‘fam-
10 ily purposes’ means any visit by a relative for
11 a social, occasional, or any other purpose.

12 “(B) RELATIVE.—The term ‘relative’
13 means the spouse, child, son, daughter, grand-
14 child, parent, grandparent, sibling, uncle, aunt,
15 niece, and nephew of a citizen of the United
16 States or an alien lawfully admitted for perma-
17 nent residence.

18 “(2) REQUIREMENT.—A relative seeking admis-
19 sion pursuant to a visa issued under section
20 101(a)(15)(B)(iii) is inadmissible unless—

21 “(A) the individual petitioning for such ad-
22 mission, or an additional sponsor, has sub-
23 mitted to the Secretary of Homeland Security
24 an undertaking under section 213 in the form
25 of a declaration of support (Form I–134); and

1 “(B) such relative has obtained, for the
2 duration of his or her stay in the United States,
3 a health insurance policy (such as an additional
4 travel health insurance policy or an existing
5 health insurance policy that includes travel
6 health care costs) with minimum policy require-
7 ments, as determined by the Secretary.

8 “(3) PERIOD OF AUTHORIZED ADMISSION.—
9 The period of authorized admission for a non-
10 immigrant described in section 101(a)(15)(B)(iii)
11 shall not exceed 90 days.

12 “(4) PETITIONER REQUIREMENT.—

13 “(A) IN GENERAL.—An individual may not
14 petition for the admission of a relative as a
15 nonimmigrant described in section
16 101(a)(15)(B)(iii) if the individual previously
17 petitioned for the admission of such a relative
18 who—

19 “(i) was admitted to the United
20 States pursuant to a visa issued under that
21 section as a result; and

22 “(ii) overstayed his or her period of
23 authorized admission.

24 “(B) PREVIOUS PETITIONERS.—An indi-
25 vidual petitioning for the admission of a relative

1 as a nonimmigrant described in section
2 101(a)(15)(B)(iii) who has previously petitioned
3 for such a relative shall submit to the Secretary
4 of Homeland Security evidence demonstrating
5 that the relative on behalf of whom the indi-
6 vidual previously petitioned did not overstay his
7 or her period of authorized admission.”.

8 (c) RESTRICTION ON CHANGE OF STATUS.—Section
9 248(a)(1) of the Immigration and Nationality Act (8
10 U.S.C. 1258(a)(1)) is amended to read as follows:

11 “(1) an alien classified as a nonimmigrant
12 under subparagraph (B)(iii), (C), (D), (K), or (S) of
13 section 101(a)(15),”.

14 (d) FAMILY PURPOSE VISA ELIGIBILITY WHILE
15 AWAITING IMMIGRANT VISA.—Notwithstanding section
16 214(b) of the Immigration and Nationality Act (8 U.S.C.
17 1184(b)), a nonimmigrant described in section
18 101(a)(15)(B)(iii) of that Act who has been classified as
19 an immigrant under section 201 of that Act (8 U.S.C.
20 1151) and is awaiting the availability of an immigrant visa
21 subject to the numerical limitations under section 203 of
22 that Act (8 U.S.C. 1153) may be admitted pursuant to
23 a family purpose visa, in accordance with section 214(s)
24 of that Act, if the individual is otherwise eligible for ad-
25 mission.

1 **Subtitle C—Spouses or Children of**
2 **an Alien Lawfully Admitted for**
3 **Permanent Residence Uncapped**

4 **SEC. 51131. SPOUSES OR CHILDREN OF AN ALIEN LAW-**
5 **FULLY ADMITTED FOR PERMANENT RESI-**
6 **DENCE.**

7 Section 201(b)(2) of the Immigration and Nationality
8 Act (8 U.S.C. 1151(b)(2)(A)) is amended by adding at
9 the end the following:

10 “(C) SPOUSES OR CHILDREN OF AN ALIEN
11 LAWFULLY ADMITTED FOR PERMANENT RESI-
12 DENCE.—Aliens who are the spouses or children
13 of an alien lawfully admitted for permanent res-
14 idence”.

15 **SEC. 51132. PREFERENCE ALLOCATION FOR FAMILY-SPON-**
16 **SORED IMMIGRANTS.**

17 Section 203 of the Immigration and Nationality Act
18 (8 U.S.C. 1153) is amended as follows:

19 (1) In subsection (a)(1), by striking “23,400”
20 and inserting “111,300”.

21 (2) In subsection (a)(2), to read as follows:

22 “(2) UNMARRIED SONS AND DAUGHTERS OF
23 PERMANENT RESIDENT ALIENS.—Qualified immi-
24 grants who are the unmarried sons or unmarried
25 daughters (but are not the children) of an alien law-

1 fully admitted for permanent residence, shall be allo-
2 cated visas in a number not to exceed 26,300, plus
3 the number (if any) by which such worldwide level
4 exceeds 226,000, plus any visas not required for the
5 class specified in paragraph (1).”.

6 **TITLE II—FAIRNESS FOR**
7 **IMMIGRANTS**

8 **SEC. 51201. ELIMINATION OF BACKLOGS.**

9 Section 201(b)(1) of the Immigration and Nationality
10 Act (8 U.S.C. 1151(b)(1)) is amended by adding at the
11 end the following:

12 “(F) Aliens who are beneficiaries (includ-
13 ing derivative beneficiaries) of an approved im-
14 migrant visa petition bearing a priority date
15 that is more than 10 years before the alien sub-
16 mits an application for an immigrant visa or for
17 adjustment of status.”.

18 **SEC. 51202. PER-COUNTRY CAPS RAISED.**

19 Section 202(a)(2) of the Immigration and Nationality
20 Act (8 U.S.C. 1152(a)(2)) is amended by striking “7 per-
21 cent” and inserting “15 percent”.

1 **SEC. 51203. PROTECTING THE STATUS OF CHILDREN AF-**
2 **FECTED BY DELAYS IN VISA AVAILABILITY.**

3 Section 203(h) of the Immigration and Nationality
4 Act (8 U.S.C. 1153(h)) is amended by amending para-
5 graph (1) to read as follows:

6 “(1) IN GENERAL.—For purposes of sub-
7 sections (a)(2)(A) and (d), a determination of
8 whether an alien satisfies the age requirement in the
9 matter preceding subparagraph (A) of section
10 101(b)(1) shall be made using the age of the alien
11 on the date on which the immigrant visa petition
12 that is the basis for the alien’s adjustment of status
13 or immigrant visa application is filed on behalf of
14 such alien (or, in the case of subsection (d), the date
15 on which an immigrant visa petition is filed on be-
16 half of the alien’s parent), but only if the alien has
17 sought to acquire the status of an alien lawfully ad-
18 mitted for permanent residence within one year of
19 the date on which an immigrant visa number be-
20 comes available for such alien and only if such peti-
21 tion is approved.”.

22 **SEC. 51204. SPOUSES AND MINOR CHILDREN NOT IN-**
23 **CLUDED IN CALCULATION.**

24 Section 201(b)(1) of the Immigration and Nationality
25 Act (8 U.S.C. 1151(b)(1)), as amended by this division,
26 is further amended by adding at the end the following:

1 “(G) Aliens described in section 203(d) if
2 accompanying or following to join their spouse
3 or parent.”.

4 **TITLE III—IMPROVING**
5 **EMPLOYMENT BASED VISAS**
6 **Subtitle A—H-4 Work**
7 **Authorization Act**

8 **SEC. 51301. EMPLOYMENT AUTHORIZATION FOR CERTAIN**
9 **ALIEN SPOUSES.**

10 Section 214(e) of the Immigration and Nationality
11 Act (8 U.S.C. 1184(e)) is amended by adding at the end
12 the following:

13 “(3) In the case of an alien spouse admitted
14 under section 101(a)(15)(H)(i)(b), who is accom-
15 panying or following to join a principal alien admit-
16 ted under such section, the Secretary of Homeland
17 Security shall authorize the alien spouse to engage
18 in employment in the United States incident to sta-
19 tus (including pursuant to timely-filed extension of
20 stay application) and provide the spouse with an
21 ‘employment authorized’ endorsement or other ap-
22 propriate work permit.”.

1 **Subtitle B—Improving**
2 **Employment Based Visas**

3 **SEC. 51311. REPEAL OF FICA EXCEPTION FOR CERTAIN**
4 **NONRESIDENTS TEMPORARILY PRESENT IN**
5 **THE UNITED STATES.**

6 (a) **IN GENERAL.**—Section 3121(b)(19) of the Inter-
7 nal Revenue Code of 1986 is amended by striking “(F),”
8 each place it appears.

9 (b) **EFFECTIVE DATE.**—The amendment made by
10 this section shall apply to services performed in calendar
11 quarters beginning after the date of the enactment of this
12 division.

13 **SEC. 51312. INDIVIDUALS WITH DOCTORAL DEGREES IN**
14 **STEM FIELDS RECOGNIZED AS INDIVIDUALS**
15 **HAVING EXTRAORDINARY ABILITY.**

16 Section 101(a)(15)(O)(i) of the Immigration and Na-
17 tionality Act (INA) is amended by inserting after “exten-
18 sive documentation” the following: “or, with regard to a
19 field of science, technology, engineering, or mathematics,
20 has earned a doctoral degree in at least one of such fields,
21 in a health profession, or in a related program, from an
22 institution of higher education in the United States (as
23 defined in section 101(a) of the Higher Education Act of
24 1965 (20 U.S.C. 1001(a))”.

1 **TITLE IV—STUDENT VISAS**

2 **SEC. 51401. MODERNIZING VISAS FOR STUDENTS.**

3 (a) MODIFICATION OF STUDENT NONIMMIGRANT
4 VISA CATEGORY.—Section 101(a)(15)(F)(i) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1101(a)(15)(F)(i))
6 is amended—

7 (1) by striking “having a residence in a foreign
8 country which he has no intention of abandoning,”;

9 (2) by striking “and solely”; and

10 (3) by striking “Attorney General” each place
11 it appears and inserting “Secretary of Homeland Se-
12 curity”.

13 (b) DUAL INTENT.—Section 214(h) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1184(h)) is amended
15 to read as follows:

16 “(h) DUAL INTENT.—The fact that an alien is, or
17 intends to be, the beneficiary of an application for a pref-
18 erence status filed under section 204, seeks a change or
19 adjustment of status after completing a legitimate period
20 of nonimmigrant stay, or has otherwise sought permanent
21 residence in the United States shall not constitute evi-
22 dence of intent to abandon a foreign residence that would
23 preclude the alien from obtaining or maintaining—

24 “(1) a visa or admission as a nonimmigrant de-
25 scribed in subparagraph (E), (F)(i), (F)(ii),

1 (H)(i)(b), (H)(i)(c), (L), (O), (P), (R), (V), or (W)
2 of section 101(a)(15); or

3 “(2) the status of a nonimmigrant described in
4 any such subparagraph.”.

5 **TITLE V—SURGING RESOURCES**
6 **TO EXPEDITE VISA PROCESSING**

7 **SEC. 51501. SURGING RESOURCES TO EXPEDITE VISA PROC-**
8 **ESSING.**

9 (a) COORDINATOR.—The Secretary of State, Sec-
10 retary of Labor, and Secretary of Homeland Security shall
11 jointly appoint an Immigration Agency Coordinator to
12 oversee the immigration functions at United States Citi-
13 zenship and Immigration Services, the Department of
14 Labor, and the Department of State.

15 (b) DUTIES.—It shall be the duty of the Immigration
16 Agency Coordinator—

17 (1) to provide recommendations to harmonize
18 agency efforts with respect to filing immigration pe-
19 titions, visas, and labor certifications; and

20 (2) to work to ensure filing information from
21 each agency is available to the other agencies.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated for fiscal year 2024—

1 (1) 2,560,000,000 to the Operations and Sup-
2 port Account at United States Citizenship and Im-
3 migration Services;

4 (2) \$825,000,000 to the Bureau of Consular
5 Affairs and Visa Service at the Department of State;
6 and

7 (3) \$225,000,000 to the Office of Foreign
8 Labor Certification at the U.S. Department of
9 Labor.