[DISCUSSION DRAFT]

117TH CONGRESS 1ST SESSION

H. R. _____

To amend the Immigration and Nationality Act to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

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

________________________________

A BILL

To amend the Immigration and Nationality Act to make mandatory and permanent requirements relating to use of an electronic employment eligibility verification system, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3
4 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
5 (a) Short Title.—This Act may be cited as the
6 “Dignity for Immigrants while Guarding our Nation to Ig-
7 nite and Deliver the American Dream Act” or as the
8 “DIGNIDAD (Dignity) Act”.
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

DIVISION A—BORDER SECURITY FOR AMERICA ACT

Sec. 1100. Short title.

TITLE I—BORDER SECURITY

Sec. 1101. Definitions.

Subtitle A—Infrastructure and Equipment

Sec. 1111. Strengthening the requirements for barriers along the southern border.
Sec. 1112. Border barrier system construction.
Sec. 1113. Air and Marine Operations flight hours.
Sec. 1114. Capability deployment to specific sectors and transit zone.
Sec. 1115. U.S. Border Patrol activities.
Sec. 1116. Border security technology program management.
Sec. 1117. National Guard support to secure the southern border.
Sec. 1118. Prohibitions on actions that impede border security on certain Federal land.
Sec. 1119. Landowner and rancher security enhancement.
Sec. 1120. Eradication of carrizo cane and salt cedar.
Sec. 1121. Southern border threat analysis, Border Patrol strategic plan, and Northern Border Threat Analysis.
Sec. 1122. Amendments to U.S. Customs and Border Protection.
Sec. 1123. Agent and officer technology use.
Sec. 1124. Integrated Border Enforcement Teams.
Sec. 1125. Tunnel Task Forces.
Sec. 1126. Pilot program on use of electromagnetic spectrum in support of border security operations.
Sec. 1127. Foreign migration assistance.
Sec. 1128. Biometric Identification Transnational Migration Alert Program.
Sec. 1129. Border and port security technology investment plan.
Sec. 1130. Commercial solutions opening acquisition program.
Sec. 1131. U.S. Customs and Border Protection technology upgrades.
Sec. 1132. Nonintrusive inspection operations.
Sec. 1134. Reimbursement of States.

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.

Subtitle C—Grants
Sec. 1161. Operation Stonegarden.

Subtitle D—Border Security Certification

Sec. 1181. Border Security Certification.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

Sec. 2101. Ports of entry infrastructure.
Sec. 2102. Sense of Congress on cooperation between agencies.
Sec. 2103. Authorization of appropriations.

TITLE II—VISA SECURITY AND INTEGRITY

Sec. 3101. Visa security.
Sec. 3102. Electronic passport screening and biometric matching.
Sec. 3103. Reporting of visa overstays.
Sec. 3104. Student and exchange visitor information system verification.
Sec. 3105. Cancellation of additional visas.
Sec. 3106. Visa information sharing.
Sec. 3107. Fraud prevention.
Sec. 3108. Visa ineligibility for spouses and children of drug traffickers.
Sec. 3109. DNA testing.
Sec. 3110. DNA collection consistent with Federal law.

TITLE III—TRANSNATIONAL CRIMINAL ORGANIZATION ILICIT SPOTTER PREVENTION AND ELIMINATION

Sec. 4101. Short title.
Sec. 4102. Illicit spotting.
Sec. 4103. Unlawfully hindering immigration, border, and customs controls.
Sec. 4104. Report on smuggling.

TITLE IV—BORDER SECURITY FUNDING

Sec. 5101. Border Security Funding.
Sec. 5102. Exclusion from PAYGO scorecards.
Sec. 5103. Funding matters.

TITLE V—MANDATORY E-VERIFY

Sec. 6101. Short title.
Sec. 6102. Employment eligibility verification process.
Sec. 6103. Employment eligibility verification system.
Sec. 6104. Recruitment, referral, and continuation of employment.
Sec. 6105. Good faith defense.
Sec. 6106. Preemption and States’ Rights.
Sec. 6107. Repeal.
Sec. 6108. Penalties.
Sec. 6109. Fraud and misuse of documents.
Sec. 6110. Protection of Social Security Administration programs.
Sec. 6111. Fraud prevention.
Sec. 6112. Use of Employment Eligibility Verification Photo Tool.
Sec. 6113. Identity authentication employment eligibility verification pilot programs.
Sec. 6114. Inspector General audits.
Sec. 6115. Nationwide E-Verify Audit.
TITLE W—SARAH AND GRANT’S LAW

Sec. 7101. Sarah and Grant’s law.
Sec. 7102. Penalties for illegal entry or presence.
Sec. 7103. Illegal reentry.

TITLE X—GANG MEMBER REMOVAL

Sec. 8101. Grounds of inadmissibility and deportability for alien gang members.

TITLE Y—ASYLUM REFORM

Sec. 9101. Regional processing centers.
Sec. 9102. Codification of Flores settlement.
Sec. 9103. Expedited asylum adjudications.
Sec. 9104. Recording expedited removal and credible fear interviews.
Sec. 9105. Renunciation of asylum status pursuant to return to home country.
Sec. 9106. Notice concerning frivolous asylum applications.
Sec. 9107. Anti-fraud investigative work product.
Sec. 9108. Penalties for asylum fraud.
Sec. 9109. Statute of limitations for asylum fraud.
Sec. 9110. Standard operating procedures; facilities standards.
Sec. 9111. Criminal background checks for sponsors of unaccompanied alien children.
Sec. 9112. Fraud in connection with the transfer of custody of unaccompanied alien children.
Sec. 9113. Hiring authority.

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

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Sec. 10101. United States Strategy for Engagement in Central America.
Sec. 10102. Securing support of international donors and partners.
Sec. 10103. Combating corruption, strengthening the rule of law, and consolidating democratic governance.
Sec. 10104. Combating criminal violence and improving citizen security.
Sec. 10105. Combating sexual, gender-based, and domestic violence.

Subtitle B—Information Campaign on the Dangers of Irregular Migration

Sec. 10201. Information campaign on dangers of irregular migration.

Subtitle C—Cracking Down on Criminal Organizations

Sec. 10301. Enhanced investigation and prosecution of human smuggling networks and trafficking organizations.
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Sec. 10303. Expanding financial sanctions on narcotics trafficking and money laundering.
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Sec. 1102. Permanent resident status on a conditional basis for certain long-term residents who entered the United States as children.
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Sec. 3102. Submission of biometric and biographic data; background checks.
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Sec. 3107. Documentation requirements.
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Sec. 3110. Grant program to assist eligible applicants.
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TITLE IV—DIGNITY AND REDEMPTION PROGRAMS

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Sec. 4001. Establishment.
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Sec. 4003. Registration; departure.
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Sec. 1009. Program eligibility.
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Sec. 1011. Authorization of appropriations.

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Sec. 101. Certified agricultural worker status.
Sec. 102. Terms and conditions of certified status.
Sec. 103. Extensions of certified status.
Sec. 104. Determination of continuous presence.
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Subtitle B—Optional Earned Residence for Long-Term Workers

Sec. 111. Optional adjustment of status for long-term agricultural workers.
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Sec. 121. Definitions.
Sec. 122. Rulemaking; Fees.
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Sec. 125. Limitation on removal.
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Sec. 201. Comprehensive and streamlined electronic H–2A platform.
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DIVISION A—BORDER SECURITY FOR AMERICA ACT

SEC. 1100. SHORT TITLE.

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

TITLE I—BORDER SECURITY

SEC. 1101. DEFINITIONS.

In this title:

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

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

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

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

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

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

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

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

(10) UNMANNED AERIAL VEHICLE.—The term
“unmanned aerial vehicle” has the meaning given
the term “unmanned aircraft” in section 331 of the
FAA Modernization and Reform Act of 2012 (Public

Subtitle A—Infrastructure and
Equipment

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

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

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

lows:

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

(2) in subsection (b)—

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

(B) in paragraph (1)—

(i) in subparagraph (A)—

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

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

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

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

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

(iii) in subparagraph (C)—

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

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

(II) in clause (ii)—

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

(bb) by amending subclause (II) to read as follows:
“(II) delay the transfer to the United States of the possession of property or affect the validity of any property acquisition by the United States by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any State; or”; and

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

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

(iv) by striking subparagraph (D);

(C) in paragraph (2)—

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

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

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

(D) by amending paragraph (3) to read as follows:
“(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security, when designing, constructing, and deploying physical barriers, tactical infrastructure, or technology, shall incorporate such safety features into such design, construction, or deployment of such physical barriers, tactical infrastructure, or technology, as the case may be, that the Secretary determines are necessary to maximize the safety and effectiveness of officers or agents of the Department of Homeland Security or of any other Federal agency deployed in the vicinity of such physical barriers, tactical infrastructure, or technology.”; and

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

(3) in subsection (e)—

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

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

(B) by redesignating paragraph (2) as paragraph (3); and
(C) by inserting after paragraph (1) the following new paragraph:

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

and

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

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

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

lance sensors’ means sensors that utilize an onboard computer to analyze detections in an effort to dis-

cern between vehicles, humans, and animals, and ul-

timately filter false positives prior to transmission.

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

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

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

“(3) OPERATIONAL CONTROL.—The term ‘oper-

ational control’ has the meaning given such term in section 2(b) of the Secure Fence Act of 2006 (Public Law 109–367; 8 U.S.C. 1701 note).

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

“(5) SITUATIONAL AWARENESS.—The term ‘sit-

uational awareness’ has the meaning given such term in section 1092(a)(7) of the National Defense
Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223(a)(7)).

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

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

“(A) Tower-based surveillance technology.

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

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

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

“(E) Advanced unattended surveillance sensors.

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

“(G) Unmanned aircraft systems.

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

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

SEC. 1112. BORDER BARRIER SYSTEM CONSTRUCTION.

(a) IN GENERAL.—

(1) IMMEDIATE RESUMPTION OF BORDER BARRIER CONSTRUCTION.—Not later than 24 hours after the date of the enactment of this section, the Secretary shall resume all activities related to the construction of the border barrier system along the international border between the United States and Mexico that were underway or being planned for prior to January 20, 2021.

(2) NO CANCELLATIONS.—The Secretary may not cancel any contract for activities related to the construction of the border barrier system that was entered into on or before January 20, 2021.

(3) USE OF FUNDS.—To carry out this section, the Secretary shall expend all funds appropriated or explicitly obligated for the construction of the border barrier system that were appropriated or obligated, as the case may be, for use beginning October 1, 2016.

(b) PLAN TO COMPLETE TACTICAL INFRASTRUCTURE AND TECHNOLOGY ELEMENTS OF SYSTEM.—Not later than 90 days after the date of the enactment of this
section, the Secretary shall submit to the appropriate congressional committees an implementation plan, including quarterly benchmarks and cost estimates, for satisfying all requirements of the construction of the border barrier system referred to in paragraph (1) of subsection (a), including tactical infrastructure, technology, and other elements as identified by the Department prior to January 20, 2021, through the expenditure of funds appropriated or explicitly obligated, as the case may be, for use beginning October 1, 2016, as well as any future funds appropriated by Congress.

(c) UPHOLD NEGOTIATED AGREEMENTS.—The Secretary shall ensure that all agreements executed in writing between the Department and private citizens, State, local, or Tribal governments, or other stakeholders are honored by the Department relating to current and future construction of the border barrier system as required by such agreements.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives and the Committee on
Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate.

(2) Tactical Infrastructure.—The term “tactical infrastructure” includes boat ramps, access gates, checkpoints, lighting, and roads associated with a border barrier system.

(3) Technology.—The term “technology” includes border surveillance and detection technology, including linear ground detection systems, associated with a border barrier system.

SEC. 1113. AIR AND MARINE OPERATIONS FLIGHT HOURS.

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

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

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

(1) the primary missions for Air and Marine Operations are to directly support—
(A) U.S. Border Patrol activities along the borders of the United States; and

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

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

(d) HIGH DEMAND FLIGHT HOUR REQUIREMENTS.—The Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—

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

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

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

(f) SMALL UNMANNED AIRCRAFT SYSTEMS.—

(1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent with respect to the use of small unmanned aircraft systems by CBP for the purpose of—
(A) meeting the unmet flight hour operational requirements of the U.S. Border Patrol; and

(B) achieving situational awareness and operational control (as such term is defined in section 2(b) of the Secure Fence Act of 2006 (Public Law 109–367; 8 U.S.C. 1701 note).

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

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

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

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

(ii) establish a process to include data from flight hours in the calculation of go away statistics.
(3) CONFORMING AMENDMENT.—Paragraph (3) of section 411(e) of the Homeland Security Act of 2002 (6 U.S.C. 211(e)) is amended—

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

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

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

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

(g) SAVINGS Clause.—Nothing in this section shall confer, transfer, or delegate to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine Operations of CBP, or the Chief of the U.S. Border Patrol any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration relating to the use of airspace or aviation safety.

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

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

SEC. 1114. CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS AND TRANSIT ZONE.

(a) IN GENERAL.—Not later than September 30, 2023, the Secretary, in implementing section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 1111 of this division), and acting through the appropriate component of the Department of Homeland Security, shall deploy to each sector or region of the southern border and the northern border, in a prioritized manner to achieve situational awareness and operational control of such borders, the following additional capabilities:

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

(A) Tower-based surveillance technology.
(B) Subterranean surveillance and detection technologies.

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

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

(ii) Unmanned aerial vehicles with maritime surveillance capability.

(iii) U.S. Customs and Border Protection maritime patrol aircraft.

(iv) Coastal radar surveillance systems.

(v) Maritime signals intelligence capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

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

(H) Man-portable unmanned aerial vehicles.
(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Man-portable unmanned aerial vehicles.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Deployable, lighter-than-air ground surveillance equipment.
(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

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

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

(B) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.
(F) A rapid reaction capability supported by aviation assets.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Ultralight aircraft detection capabilities.

(D) Advanced unattended surveillance sensors.

(E) Mobile vehicle-mounted and man-portable surveillance systems.

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

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.
(6) **BIG BEND SECTOR.**—For the Big Bend sector, the following:

(A) Tower-based surveillance technology.

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

(C) Improved agent communications capabilities.

(D) Ultralight aircraft detection capabilities.

(E) Advanced unattended surveillance sensors.

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

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

(7) **DEL RIO SECTOR.**—For the Del Río sector, the following:

(A) Tower-based surveillance technology.

(B) Increased monitoring for cross-river dams, culverts, and footpaths.
(C) Improved agent communications capabilities.

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

(E) Advanced unattended surveillance sensors.

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

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(E) Ultralight aircraft detection capability.
(F) Advanced unattended surveillance sensors.

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

(H) Man-portable unmanned aerial vehicles.

(I) Improved agent communications capabilities.

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

(A) Tower-based surveillance technology.

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

(C) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(D) Ultralight aircraft detection capability.

(E) Advanced unattended surveillance sensors.

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

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

(H) Increased maritime interdiction capabilities.
(I) Mobile vehicle-mounted and man-portable surveillance capabilities.

(J) Man-portable unmanned aerial vehicles.

(K) Improved agent communications capabilities.

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

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

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

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications capabilities.
(11) SPOKANE SECTOR.—For the Spokane sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Increased maritime interdiction capabilities.

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

(D) Advanced unattended surveillance sensors.

(E) Ultralight aircraft detection capabilities.

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

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

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

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.
(B) Mobile vehicle-mounted and man-portable surveillance capabilities.

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

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

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.
(14) DETROIT SECTOR.—For the Detroit sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.

(C) Increased maritime interdiction capabilities.

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

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(15) BUFFALO SECTOR.—For the Buffalo sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

(B) Coastal radar surveillance systems.
(C) Increased maritime interdiction capabilities.

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

(E) Advanced unattended surveillance sensors.

(F) Ultralight aircraft detection capabilities.

(G) Man-portable unmanned aerial vehicles.

(H) Improved agent communications systems.

(16) SWANTON SECTOR.—For the Swanton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.
(F) Improved agent communications systems.

(17) Houlton sector.—For the Houlton sector, the following:

(A) Increased flight hours for aerial detection, interdiction, and monitoring operations capability.

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

(C) Advanced unattended surveillance sensors.

(D) Ultralight aircraft detection capabilities.

(E) Man-portable unmanned aerial vehicles.

(F) Improved agent communications systems.

(18) Transit zone.—For the transit zone, the following:

(A) Not later than two years after the date of the enactment of this Act, an increase in the number of overall cutter, boat, and aircraft hours spent conducting interdiction operations over the average number of such hours during the preceding three fiscal years.
(B) Increased maritime signals intelligence capabilities.

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

(i) Unmanned aerial vehicles with maritime surveillance capability.

(ii) Increased maritime aviation patrol hours.

(D) Increased operational hours for maritime security components dedicated to joint counter-smuggling and interdiction efforts with other Federal agencies, including the Deployable Specialized Forces of the Coast Guard.

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

(b) TACTICAL FLEXIBILITY.—

(1) SOUTHERN AND NORTHERN LAND BORDERS.—
(A) IN GENERAL.—Beginning on September 30, 2022, or after the Secretary has deployed at least 25 percent of the capabilities required in each sector specified in subsection (a), whichever comes later, the Secretary may deviate from such capability deployments if the Secretary determines that such deviation is required to achieve situational awareness or operational control.

(B) NOTIFICATION.—If the Secretary exercises the authority described in subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the deviation under such subparagraph that is the subject of such exercise. If the Secretary makes any changes to such deviation, the Secretary shall, not later than 90 days after any such change, notify such committees regarding such change.

(2) TRANSIT ZONE.—

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

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

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

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

(i) determines, after consultation with
the committees referred to in subpara-
graph (A), that such alteration is nec-
essary; and
(ii) not later than 30 days after making a determination under clause (i), notifies the committees referred to in such subparagraph regarding such alteration, including information relating to—

(I) the number and types of assets and personnel deployed pursuant to such alteration; and

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

(e) EXIGENT CIRCUMSTANCES.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the capabilities referred to in subsection (a) in a manner that is inconsistent with the requirements specified in such subsection if, after the Secretary has deployed at least 25 percent of such capabilities, the Secretary determines that exigent circumstances demand such an inconsistent deployment or that such an inconsistent deployment is vital to the national security interests of the United States.
(2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of the House of Representative and the Committee on Homeland Security and Governmental Affairs of the Senate not later than 30 days after making a determination under paragraph (1). Such notification shall include a detailed justification regarding such determination.

(d) INTEGRATION.—In carrying out subsection (a), the Secretary shall, to the greatest extent practicable, integrate, within each sector or region of the southern border and northern border, as the case may be, the deployed capabilities specified in such subsection as necessary to achieve situational awareness and operational control of such borders.

SEC. 1115. U.S. BORDER PATROL ACTIVITIES.

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

SEC. 1116. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following new section:
SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM MANAGEMENT.

“(a) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term ‘major acquisition program’ means an acquisition program of the Department that is estimated by the Secretary to require an eventual total expenditure of at least $300,000,000 (based on fiscal year 2022 constant dollars) over its life-cycle cost.

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

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

“(2) document that each such program is satisfying cost, schedule, and performance thresholds as specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

“(3) have a plan for satisfying program implementation objectives by managing contractor performance.

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

The Commissioner shall provide information, as needed, to assist the Under Secretary in monitoring management of border security technology acquisition programs under this section.

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

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

“(2) the effective use of taxpayer dollars.”.
(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by striking the items relating to sections 435 and 436 and inserting the following new items:

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

(c) PROHIBITION ON ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 437 of the Homeland Security Act of 2002, as added by subsection (a).

SEC. 1117. NATIONAL GUARD SUPPORT TO SECURE THE SOUTHERN BORDER.

(a) NATIONAL GUARD SUPPORT.—

(1) AUTHORITY TO REQUEST.—The Secretary may, pursuant to chapter 15 of title 10, United States Code, request that the Secretary of Defense support the Secretary’s efforts to secure the southern border of the United States. The Secretary of Defense may authorize the provision of such support under section 502(f) of title 32, United States Code.

(2) APPROVAL AND ORDER.—With the approval of the Secretary and the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform operations and missions under section 502(f)
of title 32, United States Code, for the purpose of securing the southern border of the United States.

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

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

(2) operation of ground-based surveillance systems;

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

(4) intelligence analysis support.

(e) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense may deploy such materiel, equipment, and logistics support as may be necessary to ensure the effectiveness of the assistance provided under subsection (a).

(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State authorized pursuant to this section does not degrade the training and readiness of such units and personnel, the Secretary of Defense shall consider the following requirements when authorizing or approving support under subsection (a):
(1) The performance of such support may not affect adversely the quality of such training or readiness or otherwise interfere with the ability of a unit or personnel of the National Guard of a State to perform the military functions of such member or unit.

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

c) Report on Readiness.—Upon the request of the Secretary, the Secretary of Defense shall provide to the Secretary a report on the readiness of units and personnel of the National Guard that the Secretary of Defense determines are capable of providing such support.

f) Reimbursement Notification.—Prior to providing any support under subsection (a), the Secretary of Defense shall notify the Secretary whether the requested support will be reimbursed under section 277 of title 10, United States Code.

(g) Reimbursement to States.—The Secretary of Defense may reimburse a State for costs incurred in the deployment of any units or personnel of the National Guard pursuant to subsection (a).
(h) Relationship to Other Laws.—Nothing in this section may be construed as affecting the authorities under chapter 9 of title 32, United States Code.

(i) Reports.—

(1) In General.—Not later than 180 days after the date of the enactment of this Act and biannually thereafter through December 31, 2025, the Secretary of Defense shall submit to the appropriate congressional defense committees (as defined in section 101(a)(16) of title 10, United States Code) a report regarding any support provided pursuant to subsection (a) for the six month period preceding each such report.

(2) Elements.—Each report under paragraph (1) shall include a description of—

(A) the support provided; and

(B) the sources and amounts of funds obligated and expended to provide such support.

SEC. 1118. PROHIBITIONS ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) Prohibition on Interference With U.S. Customs and Border Protection.—

(1) In General.—The Secretary concerned may not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on covered
Federal land to carry out the activities described in subsection (b).

(2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct activities described in subsection (b) on covered Federal land applies without regard to whether a state of emergency exists.

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

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

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(A) carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208; 8 U.S.C. 1103 note), as amended by section 1111 of this division;
(B) the execution of search and rescue operations;

(C) the use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(D) the remediation of tunnels used to facilitate unlawful immigration or other illicit activities.

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

(2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this section are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:


(C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”).

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


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


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


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


(L) Chapter 3125 of title 54, United States Code (formerly known as the “Archaeological and Historic Preservation Act”).
(M) The Antiquities Act (16 U.S.C. 431 et seq.).

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

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


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

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


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

(W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”).
(X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

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

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

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

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


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


(3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1, 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1) shall apply to the provision of such title that corresponds to the provision of law specified in paragraph (2) to the same extent the waiver applied to that provision of law.

(4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any relevant matter.

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

(1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the use of
backcountry airstrips, on land under the jurisdiction
of the Secretary of the Interior or the Secretary of
Agriculture; or
(2) any additional authority to restrict legal ac-
access to such land.

(e) Effect on State and Private Land.—This
section shall—
(1) have no force or effect on State lands or
private lands; and
(2) not provide authority on or access to State
lands or private lands.

(f) Tribal Sovereignty.—Nothing in this section
may be construed to supersede, replace, negate, or dimin-
ish treaties or other agreements between the United States
and Indian tribes.

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

(h) Definitions.—In this section:
(1) Covered Federal Land.—The term “cov-
ered Federal land” includes all land under the con-
trol of the Secretary concerned that is located within
100 miles of the southern border or the northern border.

(2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.

SEC. 1119. LANDOWNER AND RANCHER SECURITY ENHANCEMENT.

(a) ESTABLISHMENT OF NATIONAL BORDER SECURITY ADVISORY COMMITTEE.—The Secretary shall establish a National Border Security Advisory Committee, which—

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

(A) verifying security claims and the border security metrics established by the Department of Homeland Security under section 1092 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and
(B) discussing ways to improve the security of high traffic areas along the northern border and the southern border; and

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

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

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

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

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

(d) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.
SEC. 1120. ERADICATION OF CARRIZO CANE AND SALT CEDAR.

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

(b) Extent.—The waiver authority under subsection (c) of section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note), as amended by section 4 of this Act, shall extend to activities carried out pursuant to subsection (a).

SEC. 1121. SOUTHERN BORDER THREAT ANALYSIS, BORDER PATROL STRATEGIC PLAN, AND NORTHERN BORDER THREAT ANALYSIS.

(a) Southern Border Threat Analysis.—

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

(2) Contents.—The analysis submitted under paragraph (1) shall include an assessment of—
(A) current and potential terrorism and criminal threats posed by individuals and organized groups seeking—

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

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

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

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

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

(E) the current percentage of operational control achieved by the Department on the Southern border; and
(F) traveler crossing times and any potential security vulnerability associated with prolonged wait times.

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

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

(B) the personnel needs and challenges, including such needs and challenges associated with recruitment and hiring;

(C) the infrastructure needs and challenges;

(D) the roles and authorities of State, local, and tribal law enforcement in general border security activities;

(E) the status of coordination among Federal, State, local, tribal, and Mexican law enforcement entities relating to border security;

(F) the terrain, population density, and climate along the Southern border; and
(G) the international agreements between
the United States and Mexico related to border
security.

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

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

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

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

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

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

(A) increase situational awareness, includ-
ing—

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

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

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

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

(D) focus intelligence collection to disrupt
transnational criminal organizations outside of
the international and maritime borders of the
United States; and
(E) ensure that any new border security technology can be operationally integrated with existing technologies in use by the Department.

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

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

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

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

(A) State, local, Tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the border or in the maritime environment; and

(B) border community stakeholders, including representatives from—

(i) border agricultural and ranching organizations; and

(ii) business and civic organizations.
(8) Information relating to the staffing requirements with respect to border security for the Department.

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

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

(A) identifying and detecting fraudulent documents;

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

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

(d) Northern Border Threat Analysis.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an update of the Northern Border Threat Analysis as required in the Northern Border Security Review Act (Public Law 114-267).
SEC. 1122. AMENDMENTS TO U.S. CUSTOMS AND BORDER PROTECTION.

(a) DUTIES.—Subsection (c) of section 411 of the Homeland Security Act of 2002 (6 U.S.C. 211) is amended—

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

(2) by redesignating paragraph (19) as paragraph (21); and

(3) by inserting after paragraph (18) the following new paragraphs:

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


(b) OFFICE OF FIELD OPERATIONS STAFFING.—

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

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

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

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

(1) by striking “this section, the terms” and inserting the following: “this section:

“(1) the terms”;

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

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

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

SEC. 1123. AGENT AND OFFICER TECHNOLOGY USE.

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

SEC. 1124. INTEGRATED BORDER ENFORCEMENT TEAMS.

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

“SEC. 447. INTEGRATED BORDER ENFORCEMENT TEAMS.

“(a) Establishment.—There is established within the Department a program to be known as the Integrated Border Enforcement Team program (referred to in this section as ‘IBET’) for the purposes described in subsection (b).

“(b) Purposes.—The purposes described in this subsection are the following:

“(1) Enhance cooperation between the United States and Canada with respect to border security.
“(2) Enhance security between designated ports of entry.

“(3) Detect, investigate, prevent, and respond to terrorism, transnational criminal organizations, and other violations of law related to border security.

“(4) Facilitate collaboration among components and offices within the Department and international partners.

“(5) Execute coordinated activities in furtherance of border security and homeland security.

“(6) Enhance information sharing, including the dissemination of homeland security information among such components and offices of the Department and international partners.

“(c) COMPOSITION AND ESTABLISHMENT OF UNITS.—

“(1) COMPOSITION.—IBET units may be composed of personnel from the following:

“(A) U.S. Customs and Border Protection.

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

“(C) Other Department personnel, as appropriate.
“(D) Other Federal, State, local, Tribal, and foreign law enforcement agencies, as appropriate.

“(E) Other appropriate personnel at the discretion of the Secretary.

“(2) ESTABLISHMENT OF UNITS.—

“(A) IN GENERAL.—The Secretary may establish IBET units in regions in which such units can contribute to the purpose of IBET.

“(B) ASSESSMENT.—Prior to establishing an IBET unit pursuant to subparagraph (A), the Secretary shall assess the establishment of such unit in a particular region with the following criteria:

“(i) The likelihood that the establishment of such unit in such region would significantly mitigate cross-border threats, including such threats posed by transnational criminal organizations and terrorist groups.

“(ii) The availability of Federal, State, local, Tribal, and foreign law enforcement resources to participate in such unit.
“(iii) Whether the establishment of such unit would duplicate the efforts of existing interagency task forces or centers within such region, including the Border Enforcement Security Task Force established under section 432.

“(d) OPERATION.—After establishing an IBET unit pursuant to paragraph (2) of subsection (c), the Secretary may—

“(1) direct the assignment of Federal personnel to such unit;

“(2) take other actions to assist Federal, State, local, and Tribal entities to participate in such unit, including providing financial assistance for operational, administrative, and technological costs associated with such participation;

“(3) direct the development of policy and guidance necessary to identify, assess, and integrate the available partner resources in relevant border sector security assessments and resource planning documents;

“(4) establish targets and performance measures for such unit; and
“(5) direct leadership of such unit to monitor the progress with respect to such targets and performance measures.

“(e) COORDINATION.—The Secretary shall coordinate IBET activities with other similar border security and antiterrorism programs within the Department in accordance with the strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

“(f) MEMORANDA OF UNDERSTANDING.—The Secretary may enter into memoranda of understanding with appropriate representatives of the entities specified in paragraph (1) of subsection (c), as necessary, to carry out this section.

“(g) REPORT.—Not later than 180 days after the date on which IBET is established and annually thereafter for the following six years, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that—

“(1) describes the effectiveness of IBET units in fulfilling the purposes specified in subsection (b);

“(2) identifies challenges on the sustainment of cross-border IBET operations, including challenges faced by international partners, and planned corrective actions;
“(3) identifies costs associated with IBET units disaggregated by relevant categories designated at the discretion of the Secretary;

“(4) identifies ways to support joint training for IBET stakeholder agencies and radio interoperability to allow for secure cross-border radio communications; and

“(5) identifies and assesses ways IBET, Border Tunnel Task Forces, Border Enforcement Security Task Forces, and the Integrated Cross-Border Maritime Law Enforcement Operation Program can better align operations, including interdiction and investigation activities.”.

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

“Sec. 447. Integrated Border Enforcement Teams.”.

SEC. 1125. TUNNEL TASK FORCES.

The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and remediating tunnels that breach the international border of the United States.
SEC. 1126. PILOT PROGRAM ON USE OF ELECTROMAGNETIC SPECTRUM IN SUPPORT OF BORDER SECURITY OPERATIONS.

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

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

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

(3) coordinated use of spectrum resources to better facilitate interoperability and interagency cooperation and interdiction efforts at or near the United States border.

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

SEC. 1127. FOREIGN MIGRATION ASSISTANCE.

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

“SEC. 439. FOREIGN MIGRATION ASSISTANCE.

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

“(b) DETERMINATION.—Assistance provided under subsection (a) may be provided only if such assistance
would enhance the recipient government’s capacity to address irregular migration flows that may affect the United
States, including through related detention or removal operations by the recipient government, including procedures
to screen and provide protection for certain individuals.
“(c) Reimbursement of Expenses.—The Secretary may, if appropriate, seek reimbursement from the receiving foreign government for the provision of financial assistance under this section.

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

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

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

“(e) Effective Period.—The authority provided under this section shall remain in effect until September 30, 2026.

“(f) Development and Program Execution.—The Secretary and the Secretary of State shall jointly develop and implement any financial assistance under this section.

“(g) Rule of Construction.—Nothing in this section may be construed as affecting, augmenting, or diminishing the authority of the Secretary of State.
“(h) Authorization of Appropriations.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $50,000,000 for fiscal years 2022 through 2026 to carry out this section.”.

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

“Sec. 439. Foreign migration assistance.”.

SEC. 1128. BIOMETRIC IDENTIFICATION TRANSNATIONAL MIGRATION ALERT PROGRAM.

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

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

“(a) Establishment.—There is established in the Department a program to be known as the Biometric Identification Transnational Migration Alert Program (referred to in this section as ‘BITMAP’) to address and reduce national security, border security, and public safety threats before such threats reach the international border of the United States.
“(b) DUTIES.—In carrying out BITMAP operations, the Secretary, acting through the Director of U.S. Immigration and Customs Enforcement, shall—

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

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

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

“(B) the Federal Bureau of Investigation’s Next Generation Identification database, or successor database;

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1129. BORDER AND PORT SECURITY TECHNOLOGY INVESTMENT PLAN.

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

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

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

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

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

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

   (B) are unlawfully present in the United States.

(4) A description of security-related technology acquisitions that are listed in order of priority to address the security risks and capability gaps identified pursuant to paragraphs (1) and (2), respectively.

(5) A description of each planned security-related technology program, including objectives, goals, and timelines for each such program.
(6) An identification of each deployed security-related technology that is at or near the end of the life cycle of such technology.

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

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

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

(10) An identification of ways to leverage already-existing acquisition expertise within the Federal Government.

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

(12) A description of initiatives to—

(A) streamline the acquisition process of
CBP; and

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

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

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

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

(e) LEVERAGING THE PRIVATE SECTOR.—To the ex-
tent practicable, the plan shall—
(1) leverage to the greatest extent possible emerging technological trends, and research and development trends, within the public and private sectors;

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

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

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

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

(f) DISCLOSURE.—The plan shall include a list of the names of individuals not employed by the Federal Government who contributed to the development of the plan.

(g) UPDATE AND REPORT.—Not later than the date that is two years after the date on which the plan is submitted to the appropriate congressional committees pursuant to subsection (a) and biennially thereafter for ten
years, the Commissioner shall submit to the appropriate congressional committees—

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

(2) a report that includes—

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

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

(h) DEFINITIONS.—In this section:

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

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

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

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

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

(C) the Chief Information Officer of the Department.

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

SEC. 1130. COMMERCIAL SOLUTIONS OPENING ACQUISITION PROGRAM.

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

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

(e) LIMITATION.—The Commissioner may not enter into a contract under the program for an amount in excess of $10,000,000.
(d) GUIDANCE.—The Commissioner, in consultation with the Under Secretary for Management of the Department, shall—

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

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

(e) REPORT.—

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

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

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

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

(i) the program; and

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

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

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

(g) DEFINITIONS.—In this section:

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

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

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

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

SEC. 1131. U.S. CUSTOMS AND BORDER PROTECTION TECHNOLOGY UPGRADES.

(a) SECURE COMMUNICATIONS.—The Commissioner shall ensure that each CBP officer or agent, if appropriate, is equipped with a secure radio or other two-way communication device that allows each such officer or agent to communicate—

(1) between ports of entry and inspection stations; and
(2) with other Federal, State, Tribal, and local law enforcement entities.

(b) BORDER SECURITY DEPLOYMENT PROGRAM.—

(1) EXPANSION.—Not later than September 30, 2023, the Commissioner shall fully implement the Border Security Deployment Program of CBP and expand the integrated surveillance and intrusion detection system at land ports of entry along the northern and southern borders of the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to be appropriated $33,000,000 for fiscal years 2022 and 2023 to carry out paragraph (1).

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

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

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there is authorized to
be appropriated $125,000,000 for fiscal years 2022
and 2023 to carry out paragraph (1).

(d) BIOMETRIC EXIT DATA SYSTEM.—

(1) IN GENERAL.—Subtitle B of title IV of the
seq.) is amended by adding at the end the following
new section:

“SEC. 420. BIOMETRIC EXIT DATA SYSTEM.

“(a) ESTABLISHMENT.—The Secretary shall—

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

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

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

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

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

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

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

“(i) trucking industry;
“(ii) airport industry;
“(iii) airline industry;
“(iv) seaport industry;
“(v) travel industry; and
“(vi) biometric technology industry;
“(G) a consideration of how trusted traveler programs in existence as of the date of the enactment of this section may be impacted by, or incorporated into, such a system;
“(H) defined metrics of success and milestones;
“(I) identified risks and mitigation strategies to address such risks;
“(J) a consideration of how other countries have implemented a biometric exit data system;
“(K) a consideration of stakeholder privacy concerns; and
“(L) a list of statutory, regulatory, or administrative authorities, if any, needed to integrate such a system into the operations of the Transportation Security Administration; and
“(2) not later than two years after the date of the enactment of this section, establish a biometric exit data system at—
“(A) the 15 United States airports that support the highest volume of international air travel, as determined by available Federal flight data;

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

“(C) the 15 United States land ports of entry that support the highest volume of vehicle, pedestrian, and cargo crossings, as determined by available Federal border crossing data.

“(b) IMPLEMENTATION.—

“(1) PILOT PROGRAM AT LAND PORTS OF ENTRY.—Not later than six months after the date of the enactment of this section, the Secretary, in collaboration with industry stakeholders specified in subsection (a)(1)(F), shall establish a six-month pilot program to test the biometric exit data system referred to in subsection (a)(1) on nonpedestrian outbound traffic at not fewer than three land ports of entry with significant cross-border traffic, including at not fewer than two land ports of entry on the southern land border and at least one land port of
entry on the northern land border. Such pilot pro-
gram may include a consideration of more than one
biometric mode, and shall be implemented to deter-
dine the following:

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

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

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

“(i) legitimate travel and trade;

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

“(iii) combating terrorism; and

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

“(2) AT LAND PORTS OF ENTRY.—

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

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

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

“(c) EFFECTS ON AIR, SEA, AND LAND TRANSPORTATION.—The Secretary, in consultation with appropriate industry stakeholders, shall ensure that the collection of biometric data under this section causes the least possible disruption to the movement of people or cargo in air, sea,
or land transportation, while fulfilling the goals of improving counterterrorism efforts and identifying visa holders who violate the terms of their visas.

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

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

“(1) match biometric information for an individual, regardless of nationality, citizenship, or immigration status, who is departing the United States against biometric data previously provided to the United States Government by such individual for the purposes of international travel;

“(2) leverage the infrastructure and databases of the current biometric entry and exit system established pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and
“(3) be interoperable with, and allow matching
against, other Federal databases that—

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

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

“(f) Scope.—

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

“(2) Exception for certain other individ-
uals.—This section shall not apply in the case of an
individual who exits and then enters the United
States on a passenger vessel (as such term is defined
in section 2101 of title 46, United States Code) the
itinerary of which originates and terminates in the
United States.

“(3) Exception for land ports of
entry.—This section shall not apply in the case of
a United States or Canadian citizen who exits the
United States through a land port of entry.
“(g) COLLECTION OF DATA.—The Secretary may not require any non-Federal person to collect biometric data, or contribute to the costs of collecting or administering the biometric exit data system established under this section, except through a mutual agreement.

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

“(i) FACILITIES.—

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

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

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

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

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

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

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

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

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $50,000,000 for each of fiscal years 2022 and 2023 to carry out section 420 of the Homeland Security Act of 2002, as added by this subsection.

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

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

SEC. 1132. NONINTRUSIVE INSPECTION OPERATIONS.

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

SEC. 1133. HOMELAND SECURITY INVESTIGATIONS INNOVATION LAB.

(a) IN GENERAL.—Subtitle E of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following new section:
“SEC. 463. INNOVATION LAB.

“(a) ESTABLISHMENT.—

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

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

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

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

“(1) the Department, where possible; or

“(2) Federal facilities, where appropriate.

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

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

“(3) The private sector (through advisory partnerships), including developers with specializations in innovative and emerging technology, backend architecture, or user interface design.

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

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

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

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $24,700,000 for fiscal year 2022 and $27,700,000 for fiscal year 2023 to carry out this section.”.
**b) CLERICAL AMENDMENT.—**The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 462 the following new item:

“Sec. 463. Innovation lab.”.

**SEC. 1134. REIMBURSEMENT OF STATES.**

The head of each appropriate agency may reimburse a State for costs incurred in providing assistance in the construction of the border barrier system or the deployment technology under this Act.

**Subtitle B—Personnel**

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

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

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

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

(b) CBP OFFICERS.—In addition to positions authorized before the date of the enactment of this section and any existing officer vacancies within CBP as of such date, the Commissioner shall, not later than September 30, 2025, hire, train, and assign to duty sufficient CBP officers to maintain an active duty presence of—
(1) not fewer than 27,725 full-time equivalent officers; and
(2) the required associated full-time support staff distributed among all United States ports of entry.

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

(d) CBP K–9 UNITS AND HANDLERS.—
(1) K–9 UNITS.—Not later than September 30, 2025, the Commissioner shall deploy not fewer than 200 new K–9 units, with supporting officers of CBP and other required staff, at land ports of entry and checkpoints, along the northern and southern borders of the United States.
(2) USE OF CANINES.—The Commissioner shall prioritize the use of K–9 units at the primary inspection lanes at land ports of entry and checkpoints.

(e) CBP TUNNEL DETECTION AND REMEDIATION.—Not later than September 30, 2025, the Commissioner shall increase by not fewer than 50 the number of CBP officers assisting task forces and activities related to—
(1) the deployment and operation of border tunnel detection technology;

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

(A) unlawfully entering the United States;

(B) drug trafficking; or

(C) human smuggling; and

(3) the remediation of such illicit tunnels.

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

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

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

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

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

“(a) Definitions.—In this section—

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

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

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

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

“(5) the term ‘Secretary’ means the Secretary of Homeland Security.
“(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND RELOCATION BONUSES; RETENTION BONUSES.—

“(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and staffing levels required by section 1134 of the Border Security for America Act. The Secretary shall not use this authority beyond meeting the requirements of such section.

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

“(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year) in the required service period to an individual (other than an individual described in subsection (a)(2) of section 5753) if—
“(A) the Secretary determines that conditions consistent with the conditions described in paragraphs (1) and (2) of subsection (b) of such section 5753 are satisfied with respect to the individual (without regard to the regulations referenced in subsection (b)(2)(B)(ii)(I) of such section or to any other provision of that section); and

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

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

“(ii) that includes—

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

“(II) the amount of the bonus; and

“(III) other terms and conditions under which the bonus is payable, subject to the requirements of this subsection, including—
“(aa) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

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

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

“(A) the Secretary determines that—

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

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

“(I) the Federal service; or

“(II) for a different position in the Federal service, including a position in another agency or component
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of the Department of Homeland Secu-

rity; and

“(B) the individual enters into a written

service agreement with the Secretary—

“(i) under which the individual is re-

quired to complete a period of employment

as a CBP employee of not less than 2

years; and

“(ii) that includes—

“(I) the commencement and ter-

mination dates of the required service

period (or provisions for the deter-

mination thereof);

“(II) the amount of the bonus;

and

“(III) other terms and conditions

under which the bonus is payable,

subject to the requirements of this

subsection, including—

“(aa) the conditions under

which the agreement may be ter-

minated before the agreed-upon

service period has been com-

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

“(5) RULES FOR BONUSES.—

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

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

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

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

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

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

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

“(c) SPECIAL RATES OF PAY.—In addition to the cir-
cumstances described in subsection (b) of section 5305,
the Director may establish special rates of pay in accord-
ance with that section to assist the Secretary in meeting
the requirements of section 1134 of the Border Security
for America Act. The Director shall prioritize the consid-
eration of requests from the Secretary for such special
rates of pay and issue a decision as soon as practicable.
The Secretary shall provide such information to the Direc-
tor as the Director deems necessary to evaluate special
rates of pay under this subsection.

“(d) OPM OVERSIGHT.—

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

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

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

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

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

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

“(A) whether any CBP employee accepted an employment incentive under subsection (b) and (c) and then transferred to a new location or left U.S. Customs and Border Protection; and
“(B) the length of time that each employee identified under subparagraph (A) stayed at the original location before transferring to a new location or leaving U.S. Customs and Border Protection.

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

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

“(f) IMPROVING CBP HIRING AND RETENTION.—

“(1) EDUCATION OF CBP HIRING OFFICIALS.—

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

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

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

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

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

“(D) Developing and enhancing strategic recruiting efforts through the relationships with institutions of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job placement program in regions that could assist in filling positions in rural or remote areas.

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

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

“(G) Feedback from CBP employees, other than new hires, who are stationed at locations in a rural or remote area, including feedback on the quality of life in rural or remote areas for those CBP employees and their families.
“(H) Evaluation of Department of Homeland Security internship programs and the usefulness of those programs in improving hiring by the Secretary in rural or remote areas.

“(3) EVALUATION.—

“(A) IN GENERAL.—Each year, the Secretary shall—

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

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

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

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

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

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

“(h) Exercise of Authority.—

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

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

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

“(j) Sunset.—The authorities under subsections (b) and (c) shall terminate on September 30, 2026. Any bonus to be paid pursuant to subsection (b) that is approved be-
fore such date may continue until such bonus has been
paid, subject to the conditions specified in this section.”.

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

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

SEC. 1143. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-
TION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Supplemental Commissioner Authority and Definitions.—

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

“SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

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

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

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

“SEC. 6. REPORTING.

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

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

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

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

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

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

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

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

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

“SEC. 7. DEFINITIONS.

“In this Act:

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

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

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

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

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

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

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

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

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

“(l) TRAINING AND CONTINUING EDUCATION.—

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

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

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

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

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

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

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

(1) The U.S. Border Patrol.

(2) Air and Marine Operations of CBP.

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

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

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

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

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

(c) Report.—

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

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

(B) each relevant workload staffing model.

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

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

(2) any further recommendations to improve such model.

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

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

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

Subtitle C—Grants

Sec. 1161. Operation Stonegarden.

(a) In General.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding at the end the following new section:
SEC. 2009A. OPERATION STONEGARDEN.

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

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

(1) shall be located in—

(A) a State bordering Canada or Mexico;

or

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

(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection operation coordinated through a U.S. Border Patrol sector office.

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

(1) equipment, including maintenance and sustainment costs;
“(2) personnel, including overtime and backfill, in support of enhanced border law enforcement activities;

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

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

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

“(e) REPORT.—For each of fiscal years 2022 through 2026, the Administrator shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that contains information on the expenditure of grants made under this section by each grant recipient.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $110,000,000 for each
of fiscal years 2022 through 2026 for grants under this
section.”.

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

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

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

“Sec. 2009A. Operation Stonegarden.”.

Subtitle D—Border Security
Certification

SEC. 1181. BORDER SECURITY CERTIFICATION.

(a) IN GENERAL.—No person may receive a visa
under section 4005 of division B of this Act or register
for the Redemption Program under subtitle B of title IV
of such division, until the date that the Sector Chief from
each Border Patrol Sector on the Southern Border
achieves and maintain a 90 percent or greater detection
and apprehension rate of individuals attempting to ille-
gally cross the border in that sector, and makes a certifi-
cation to that effect. The governor of the State in which
the sector is headquartered shall have 180 days to submit
1  a report to the Border Security Certification Task Force
2  assessing and reviewing this certification. The Border may
3  not be considered certified as secure until all 9 Sector
4  Chiefs and the Border Security Certification Task Force
5  have certified these metrics have been met, and continue
6  maintaining these metrics on annual basis thereafter.
7
8  (b) BORDER SECURITY CERTIFICATION TASK
9  FORCE.—There is established a Border Security Certifi-
10  cation Task Force, which shall consist of—
11
12  (1) a representative appointed by each of the
13    following:
14
15    (A) The Attorney General.
16
17    (B) The Secretary of State.
18
19    (C) The Secretary of Defense.
20
21    (D) The Director of the Central Intel-
22      ligence Agency.
23
24  (2) A representative appointed by the Governor
25    of each of the following border States:
26
27    (A) Arizona.
28
29    (B) California.
30
31    (C) New Mexico.
32
33    (D) Texas.
34
35  (3) A Member of Congress appointed by each of
36    the following:
(A) The chair of the Committee on Homeland Security of the House of Representatives.

(B) The ranking member of the Committee on Homeland Security of the House of Representatives.

(C) The chair of the Committee on the Judiciary of the House of Representatives.

(D) The ranking member of the Committee on the Judiciary of the House of Representatives.

(E) The chair of the Committee on Homeland Security and Governmental Affairs of the Senate.

(F) The ranking member of the Committee on Homeland Security and Governmental Affairs of the Senate.

(G) The chair of the Committee on the Judiciary of the Senate.

(H) The ranking member of the Committee on the Judiciary of the Senate.


(7) Two members from the National Border Security Advisory Committee established in section 1119.

The Task Force shall take any action only by majority vote.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND INFRASTRUCTURE FUNDING

SEC. 2101. PORTS OF ENTRY INFRASTRUCTURE.

(a) ADDITIONAL PORTS OF ENTRY.—

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

(2) CONSULTATION.—

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

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

(b) EXPANSION AND MODERNIZATION OF HIGH-PRI-
ORITY SOUTHERN BORDER PORTS OF ENTRY.—Not later
than September 30, 2026, the Administrator of General
Services, subject to section 3307 of title 40, United States
Code, and in coordination with the Secretary, shall expand
or modernize high-priority ports of entry on the southern
border, as determined by the Secretary, for the purposes
of reducing wait times and enhancing security.

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

(d) Notifications.—

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

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

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

(1) create or negate any right of action for a
State, local government, or other person or entity af-
fected by this section;
(2) delay the transfer of the possession of property to the United States or affect the validity of any property acquisitions by purchase or eminent domain, or to otherwise affect the eminent domain laws of the United States or of any State; or

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

(f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as providing the Secretary new authority related to the construction, acquisition, or renovation of real property.

SEC. 2102. SENSE OF CONGRESS ON COOPERATION BETWEEN AGENCIES.

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

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

(1) any lack of certified personnel for inspection purposes at ports of entry should be addressed by seeking cooperation between agencies and departments of the United States, whether in the form of a memorandum of understanding or through a certification process, whereby additional existing agents are authorized for additional hours to facilitate and
expedite the flow of legitimate trade and commerce
of perishable goods in a manner consistent with
rules of the Department of Agriculture; and
(2) cross designation should be available for
personnel who will assist more than one agency or
department of the United States at land ports of
entry to facilitate and expedite the flow of increased
legitimate trade and commerce.

SEC. 2103. AUTHORIZATION OF APPROPRIATIONS.

In addition to any amounts otherwise authorized to
be appropriated for such purpose, there is authorized to
be appropriated $4,000,000,000 for each of fiscal years
2022 through 2026 to carry out this title

TITLE II—VISA SECURITY AND
INTEGRITY

SEC. 3101. VISA SECURITY.

(a) Visa Security Units at High Risk Posts.—
Paragraph (1) of section 428(e) of the Homeland Security
Act of 2002 (6 U.S.C. 236(e)) is amended—
(1) by striking “The Secretary” and inserting
the following:
“(A) Authorization.—Subject to the
minimum number specified in subparagraph
(B), the Secretary”; and
(2) by adding at the end the following new sub-
paragraph:

“(B) RISK-BASED ASSIGNMENTS.—

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

“(I) in a risk-based manner;

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

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

“(ii) PRIORITY CONSIDERATION.—In
carrying out National Security Decision
Directive 38 of June 2, 1982, the Sec-
retary of State shall ensure priority consid-
eration of any staffing assignment pursu-
ant to this subparagraph.
“(iii) CRITERIA DESCRIBED.—The criteria referred to in clause (i) are the following:

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

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

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

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

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

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

(b) COUNTERTERROR VETTING AND SCREENING.—

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

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

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

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

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

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

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

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

“(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at which employees of the Department are not assigned pursuant to paragraph (1), the Secretary shall, in a risk-based manner, assign employees of the Department to remotely perform the functions required under paragraph (2) at not fewer than 50 of such posts.

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

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

(f) FUNDING.—

(1) ADDITIONAL VISA FEE.—

(A) IN GENERAL.—The Secretary of State,
in consultation with the Secretary of Homeland
Security, shall charge a fee in support of visa
security, to be deposited in the U.S. Immigra-
tion and Customs Enforcement account. Fees
imposed pursuant to this subsection shall be
available only to the extent provided in advance
by appropriations Acts.

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

(2) Use of Fees.—Amounts deposited in the U.S. Immigration and Customs Enforcement account pursuant to paragraph (1) are authorized to be appropriated to the Secretary of Homeland Security for the funding of the visa security program referred to in such paragraph.

SEC. 3102. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

(a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.), as amended by section 2106 of this division, is further amended by adding at the end the following new sections:

"SEC. 420A. ELECTRONIC PASSPORT SCREENING AND BIOMETRIC MATCHING.

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

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

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

“(b) APPLICABILITY.—

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

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

“(c) ANNUAL REPORT.—The Commissioner of U.S. Customs and Border Protection, in collaboration with the Chief Privacy Officer of the Department, shall issue to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report through fiscal year 2026 on the utilization of facial recognition technology and other biometric technology pursuant to subsection (a)(2). Each such report shall include
information on the type of technology used at each airport of entry, the number of individuals who were subject to inspection using either of such technologies at each airport of entry, and within the group of individuals subject to such inspection at each airport, the number of those individuals who were United States citizens and legal permanent residents. Each such report shall provide information on the disposition of data collected during the year covered by such report, together with information on protocols for the management of collected biometric data, including timeframes and criteria for storing, erasing, destroying, or otherwise removing such data from databases utilized by the Department.

SEC. 420B. CONTINUOUS SCREENING BY U.S. CUSTOMS AND BORDER PROTECTION.

““The Commissioner of U.S. Customs and Border Protection shall, in a risk based manner, continuously screen individuals issued any visa, and individuals who are nationals of a program country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are present, or are expected to arrive within 30 days, in the United States, against the appropriate criminal, national security, and terrorism databases maintained by the Federal Government.”.”
(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 420 the following new items:

"Sec. 420A. Electronic passport screening and biometric matching.
"Sec. 420B. Continuous screening by U.S. Customs and Border Protection.”.

SEC. 3103. REPORTING OF VISA OVERSTAYS.

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

(1) in subsection (a)—

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

(B) by inserting before the period at the end the following: “, and any additional information that the Secretary determines necessary for purposes of the report under subsection (b)”;

(2) by amending subsection (b) to read as follows:

“(b) ANNUAL REPORT.—Not later than September 30, 2023, and not later than September 30 of each year thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the
Senate a report providing, for the preceding fiscal year, numerical estimates (including information on the methodology utilized to develop such numerical estimates) of—

“(1) for each country, the number of aliens from the country who are described in subsection (a), including—

“(A) the total number of such aliens within all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

“(B) the number of such aliens within each of the classes of nonimmigrant aliens, as well as the number of such aliens within each of the subclasses of such classes of nonimmigrant aliens, as applicable;

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

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

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

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

SEC. 3104. STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM VERIFICATION.

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

SEC. 3105. CANCELLATION OF ADDITIONAL VISAS.

(a) IN GENERAL.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary”; and
(B) by inserting “and any other non-immigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and

(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien’s nationality” and inserting “(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien’s nationality or foreign residence”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after such date.

SEC. 3106. VISA INFORMATION SHARING.

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

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

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

(3) in paragraph (2)(A)—

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

(B) by inserting “(i)” after “for the purpose of”; and

(C) by striking “illicit weapons; or” and inserting “illicit weapons, or (ii) determining a person’s deportability or eligibility for a visa, admission, or other immigration benefit;”;

(4) in paragraph (2)(B)—

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

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

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

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

(5) in paragraph (2), by adding at the end the following:
“(C) with regard to any or all aliens in the
database specified data elements from each
record, if the Secretary of State determines that
it is in the national interest to provide such in-
formation to a foreign government.”.

(b) Effective Date.—The amendments made by
subsection (a) shall take effect 60 days after the date of
the enactment of this Act.

SEC. 3107. FRAUD PREVENTION.

(a) Prospective Analytics Technology.—

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

(2) Implementation of Plan.—Not later
than 1 year after the date of the submission of the
plan under paragraph (1), the Secretary of Home-
land Security shall begin implementation of the plan.
(b) BENEFITS FRAUD ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Homeland Security, acting through the Fraud Detection and Nationality Security Directorate, shall complete a benefit fraud assessment by fiscal year 2023 on each of the following:

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

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

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

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

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

(F) Applications for asylum under section 208 of such Act (8 U.S.C. 1158).
Applications for adjustment of status under section 209 of such Act (8 U.S.C. 1159).

Petitions for visas or status under section 201(b) of such Act (8 U.S.C. 1151(b)).

(2) REPORTING ON FINDINGS.—Not later than 30 days after the completion of each benefit fraud assessment under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such assessment and recommendations on how to reduce the occurrence of instances of fraud identified by the assessment.

SEC. 3108. VISA INELIGIBILITY FOR SPOUSES AND CHILDREN OF DRUG TRAFFICKERS.

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

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

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

SEC. 3109. DNA TESTING.

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

SEC. 3110. DNA COLLECTION CONSISTENT WITH FEDERAL LAW.

Not later than 14 days after the date of the enactment of this section, the Secretary shall ensure and certify to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP is fully compliant with the DNA Fingerprint Act of 2005 (Public Law 109–162; 119 Stat. 3084) at all border facilities that process adults, including as part of a family unit, in the custody of CBP at the border.
TITLE III—TRANSNATIONAL CRIMINAL ORGANIZATION IL- LICIT SPOTTER PREVENTION AND ELIMINATION

SEC. 4101. SHORT TITLE.

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

SEC. 4102. ILLICIT SPOTTING.

Section 1510 of title 18, United States Code, is amended by adding at the end the following:

“(f) Any person who knowingly transmits, by any means, to another person the location, movement, or activities of any officer or agent of a Federal, State, local, or tribal law enforcement agency with the intent to further a criminal offense under the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act), the Controlled Substances Act, or the Controlled Substances Import and Export Act, or that relates to agriculture or monetary instruments shall be fined under this title or imprisoned not more than 10 years, or both.”.
(a) **Bringing In and harboring of Certain Aliens.**—Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (2), by striking “brings to or attempts to” and inserting the following: “brings to or knowingly attempts or conspires to”; and

(2) by adding at the end the following:

“(5) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if that person, at the time of the offense, used or carried a firearm or who, in furtherance of any such crime, possessed a firearm.”.

(b) **Aiding or Assisting Certain Aliens To Enter the United States.**—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

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

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

(c) DESTRUCTION OF UNITED STATES BORDER CON-
TROLS.—Section 1361 of title 18, United States Code, is
amended—

(1) by striking “If the damage” and inserting
the following:

“(1) Except as otherwise provided in this sec-
tion, if the damage”; and

(2) by adding at the end the following:

“(2) If the injury or depredation was made or
attempted against any fence, barrier, sensor, cam-
era, or other physical or electronic device deployed
by the Federal Government to control the border or
a port of entry or otherwise was intended to con-
struct, excavate, or make any structure intended to
defeat, circumvent, or evade any such fence, barrier,
sensor camera, or other physical or electronic device
deployed by the Federal Government to control the
border or a port of entry, by a fine under this title
or imprisonment for not more than 15 years, or
both.
“(3) If the injury or depredation was described under paragraph (2) and, in the commission of the offense, the offender used or carried a firearm or, in furtherance of any such offense, possessed a firearm, by a fine under this title or imprisonment for not more than 20 years, or both.”.

SEC. 4104. REPORT ON SMUGGLING.

The Secretary of Homeland Security, in coordination with the heads of appropriate Federal agencies, shall develop a regularly updated intelligence driven analysis that includes—

(1) migrant perceptions of United States law and policy at the border, including human smuggling organization messaging and propaganda;

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

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

(4) any other information the Secretary determines appropriate.
TITLE IV—BORDER SECURITY
FUNDING

SEC. 5101. BORDER SECURITY FUNDING.

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

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

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

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

(B) new roads and improvements to existing roads;

(C) U.S. Border Patrol facilities and ports of entry;
(D) aircraft, aircraft-based sensors and associated technology, vessels, spare parts, and equipment to maintain such assets;

(E) a biometric entry and exit system; and

(F) family residential centers.

(b) **AVAILABILITY OF BORDER BARRIER SYSTEM FUNDS.**—

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

(A) $3,041,000,000 shall become available October 1, 2022;

(B) $2,608,000,000 shall become available October 1, 2023;

(C) $1,715,000,000 shall become available October 1, 2024;

(D) $2,140,000,000 shall become available October 1, 2025;

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

(F) $1,746,000,000 shall become available October 1, 2027;

(G) $1,776,000,000 shall become available October 1, 2028;

(H) $1,746,000,000 shall become available October 1, 2029; and
(I) $1,718,000,000 shall become available October 1, 2030.

(c) Availability of Border Security Investment Funds.—

(1) In general.—Of the amount appropriated in subsection (a)(2)—

(A) $500,000,000 shall become available October 1, 2022;

(B) $1,850,000,000 shall become available October 1, 2023;

(C) $1,950,000,000 shall become available October 1, 2024;

(D) $1,925,000,000 shall become available October 1, 2025; and

(E) $550,000,000 shall become available October 1, 2026.

(d) Multi-Year Spending Plan.—The Secretary of Homeland Security shall include in the budget justification materials submitted in support of the President’s annual budget request for fiscal year 2023 (as submitted under section 1105(a) of title 31, United States Code) a multi-year spending plan for the amounts made available under subsection (a).

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

SEC. 5102. EXCLUSION FROM PAYGO SCORECARDS.

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

SEC. 5103. FUNDING MATTERS.

(a) IMMIGRATION INFRASTRUCTURE FUND.—

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

“SEC. 9512. IMMIGRATION INFRASTRUCTURE FUND.

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

“(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There are hereby appropriated to the Immigration Infrastructure Fund amounts equivalent to the taxes received in the Treasury
under section 4004 of division B of the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act paid or incurred by taxpayers who are aliens and participants in the Dignity Program under title IV of division B of the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act.

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

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

“Sec. 9512. [_______ Trust Fund].”.

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

TITLE V—MANDATORY E-VERIFY

SEC. 6101. SHORT TITLE.

This title may be cited as the “Legal Workforce Act”.

This title may be cited as the “Legal Workforce Act”.
SEC. 6102. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended to read as follows:

“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.—

“(1) NEW HIRES, RECRUITMENT, AND REFERRAL.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the following:

“(A) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

“(i) ATTESTATION.—During the verification period (as defined in subparagraph (E)), the person or entity shall attest, under penalty of perjury and on a form, including electronic and telephonic formats, designated or established by the Secretary by regulation not later than 6 months after the date of the enactment of the Legal Workforce Act, that it has verified that the individual is not an unauthorized alien by—
“(I) obtaining from the individual the individual’s social security account number or United States passport number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States nationality under subparagraph (B), obtaining such identification or authorization number established by the Department of Homeland Security for the alien as the Secretary of Homeland Security may specify, and recording such number on the form; and

“(II) examining—

“(aa) a document relating to the individual presenting it described in clause (ii); or

“(bb) a document relating to the individual presenting it described in clause (iii) and a document relating to the individual presenting it described in clause (iv).
“(ii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION AND ESTABLISHING IDENTITY.—A document described in this subparagraph is an individual’s—

“(I) unexpired United States passport or passport card;

“(II) unexpired permanent resident card that contains a photograph;

“(III) unexpired employment authorization card that contains a photograph;

“(IV) in the case of a non-immigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I–94 or Form I–94A, or other documentation as designated by the Secretary specifying the alien’s non-immigrant status as long as the period of status has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified in the documentation;
“(V) passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I–94 or Form I–94A, or other documentation as designated by the Secretary, indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; or

“(VI) other document designated by the Secretary of Homeland Security, if the document—

“(aa) contains a photograph of the individual and biometric identification data from the individual and such other personal identifying information relating to the individual as the Secretary of Homeland Security finds, by regulation, sufficient for purposes of this clause;

“(bb) is evidence of authorization of employment in the United States; and
“(cc) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

“(iii) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual’s social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

“(iv) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is—

“(I) an individual’s unexpired State issued driver’s license or identification card if it contains a photograph and information such as name, date of birth, gender, height, eye color, and address;

“(II) an individual’s unexpired U.S. military identification card;

“(III) an individual’s unexpired Native American tribal identification
document issued by a tribal entity recognized by the Bureau of Indian Affairs; or

“(IV) in the case of an individual under 18 years of age, a parent or legal guardian’s attestation under penalty of law as to the identity and age of the individual.

“(V) Authority to prohibit use of certain documents.—If the Secretary of Homeland Security finds, by regulation, that any document described in clause (i), (ii), or (iii) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Secretary may prohibit or place conditions on its use for purposes of this paragraph.

“(vi) Signature.—Such attestation may be manifested by either a handwritten or electronic signature.

“(B) Individual attestation of employment authorization.—During the verification period (as defined in subparagraph
(E)), the individual shall attest, under penalty
of perjury on the form designated or established
for purposes of subparagraph (A), that the indi-
vidual is a citizen or national of the United
States, an alien lawfully admitted for perma-
rent residence, or an alien who is authorized
under this Act or by the Secretary of Homeland
Security to be hired, recruited, or referred for
such employment. Such attestation may be
manifested by either a handwritten or electronic
signature. The individual shall also provide that
individual’s social security account number or
United States passport number (if the indi-
vidual claims to have been issued such a num-
ber), and, if the individual does not attest to
United States nationality under this subpara-
graph, such identification or authorization num-
ber established by the Department of Homeland
Security for the alien as the Secretary may
specify.

“(C) RETENTION OF VERIFICATION FORM
AND VERIFICATION.—

“(i) IN GENERAL.—After completion
of such form in accordance with subpara-
graphs (A) and (B), the person or entity shall—

“(I) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during a period beginning on the date of the recruiting or referral of the individual, or, in the case of the hiring of an individual, the date on which the verification is completed, and ending—

“(aa) in the case of the recruiting or referral of an individual, 3 years after the date of the recruiting or referral; and

“(bb) in the case of the hiring of an individual, the later of 3 years after the date the verification is completed or one year after the date the individual’s employment is terminated; and
“(II) during the verification period (as defined in subparagraph (E)), make an inquiry, as provided in subsection (d), using the verification system to seek verification of the identity and employment eligibility of an individual.

“(ii) CONFIRMATION.—

“(I) CONFIRMATION RECEIVED.—If the person or other entity receives an appropriate confirmation of an individual’s identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

“(II) TENTATIVE NONCONFIRMATION RECEIVED.—If the person or other entity receives a tentative non-confirmation of an individual’s identity or work eligibility under the
verification system within the time period specified, the person or entity shall so inform the individual for whom the verification is sought. If the individual does not contest the non-confirmation within the time period specified, the nonconfirmation shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a final nonconfirmation. If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under subsection (d). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a
nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure. In no case shall an employer rescind the offer of employment to an individual because of a failure of the individual to have identity and work eligibility confirmed under this subsection until a nonconfirmation becomes final. Nothing in this subclause shall apply to a recission of the offer of employment for any reason other than because of such a failure.

“(III) Final Confirmation or Nonconfirmation Received.—If a final confirmation or nonconfirmation is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.
“(IV) Extension of time.—If the person or other entity in good faith attempts to make an inquiry during the time period specified and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

“(V) Consequences of non-confirmation.—

“(aa) Termination or notification of continued employment.—If the person or other entity has received a final...
nonconfirmation regarding an individual, the person or entity may terminate employment of the individual (or decline to recruit or refer the individual). If the person or entity does not terminate employment of the individual or proceeds to recruit or refer the individual, the person or entity shall notify the Secretary of Homeland Security of such fact through the verification system or in such other manner as the Secretary may specify.

“(bb) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under item (aa), the failure is deemed to constitute a violation of subsection (a)(1)(A) with respect to that individual.

“(VI) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to
employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A).

“(D) Effective dates of new procedures.—

“(i) Hiring.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity hiring an individual for employment in the United States as follows:

“(I) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, on the date that is 6 months after the date of the enactment of such Act.

“(II) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that
is 12 months after the date of the enactment of such Act.

“(III) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 18 months after the date of the enactment of such Act.

“(IV) With respect to employers having one or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, on the date that is 24 months after the date of the enactment of such Act.

“(ii) RECRUITING AND REFERRING.—Except as provided in clause (iii), the provisions of this paragraph shall apply to a person or other entity recruiting or referring an individual for employment in the United States on the date that is 12
months after the date of the enactment of the Legal Workforce Act.

“(iii) AGRICULTURAL LABOR OR SERVICES.—With respect to an employee performing agricultural labor or services, this paragraph shall not apply with respect to the verification of the employee until the date that is 30 months after the date of the enactment of the Legal Workforce Act. For purposes of the preceding sentence, the term ‘agricultural labor or services’ has the meaning given such term by the Secretary of Agriculture in regulations and includes agricultural labor as defined in section 3121(g) of the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state, all activities required for the preparation, processing or manufacturing of a product of agriculture (as such term is de-
fined in such section 3(f)) for further dis-
tribution, and activities similar to all the
foregoing as they relate to fish or shellfish
facilities. An employee described in this
clause shall not be counted for purposes of
clause (i).

“(iv) EXTENSIONS.—Upon request by
an employer having 50 or fewer employees,
the Secretary shall allow a one-time 6-
month extension of the effective date set
out in this subparagraph applicable to such
employer. Such request shall be made to
the Secretary and shall be made prior to
such effective date.

“(v) TRANSITION RULE.—Subject to
paragraph (4), the following shall apply to
a person or other entity hiring, recruiting,
or referring an individual for employment
in the United States until the effective
date or dates applicable under clauses (i)
through (iii):

“(I) This subsection, as in effect
before the enactment of the Legal
Workforce Act.
“(II) Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 6107(e) of the Legal Workforce Act.

“(III) Any other provision of Federal law requiring the person or entity to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), as in effect before the effective date in section 6107(e) of the Legal Workforce Act, including Executive Order 13465 (8 U.S.C. 1324a note; relating to Government procurement).

“(E) VERIFICATION PERIOD DEFINED.—

“(i) In general.—For purposes of this paragraph:

“(I) In the case of recruitment or referral, the term ‘verification period’ means the period ending on the date recruiting or referring commences.
“(II) In the case of hiring, the term ‘verification period’ means the period beginning on the date on which an offer of employment is extended and ending on the date that is three business days after the date of hire, except as provided in clause (iii). The offer of employment may be conditioned in accordance with clause (ii).

“(ii) JOB OFFER MAY BE CONDITIONAL.—A person or other entity may offer a prospective employee an employment position that is conditioned on final verification of the identity and employment eligibility of the employee using the procedures established under this paragraph.

“(iii) SPECIAL RULE.—Notwithstanding clause (i)(II), in the case of an alien who is authorized for employment and who provides evidence from the Social Security Administration that the alien has applied for a social security account number, the verification period ends three business days after the alien receives the social security account number.
“(2) Reverification for Individuals with Limited Work Authorization.—

“(A) In general.—Except as provided in subparagraph (B), a person or entity shall make an inquiry, as provided in subsection (d), using the verification system to seek reverification of the identity and employment eligibility of all individuals with a limited period of work authorization employed by the person or entity during the three business days after the date on which the employee’s work authorization expires as follows:

“(i) With respect to employers having 10,000 or more employees in the United States on the date of the enactment of the Legal Workforce Act, beginning on the date that is 6 months after the date of the enactment of such Act.

“(ii) With respect to employers having 500 or more employees in the United States, but less than 10,000 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 12 months
after the date of the enactment of such Act.

“(iii) With respect to employers having 20 or more employees in the United States, but less than 500 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 18 months after the date of the enactment of such Act.

“(iv) With respect to employers having one or more employees in the United States, but less than 20 employees in the United States, on the date of the enactment of the Legal Workforce Act, beginning on the date that is 24 months after the date of the enactment of such Act.

“(B) AGRICULTURAL LABOR OR SERVICES.—With respect to an employee performing agricultural labor or services, or an employee recruited or referred by a farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801)), subparagraph (A) shall not apply with respect to the reverification of the employee until the date that is 30 months after
the date of the enactment of the Legal Work-
force Act. For purposes of the preceding sen-
tence, the term ‘agricultural labor or services’
has the meaning given such term by the Sec-
retary of Agriculture in regulations and in-
cludes agricultural labor as defined in section
3121(g) of the Internal Revenue Code of 1986,
agriculture as defined in section 3(f) of the
203(f)), the handling, planting, drying, packing,
packaging, processing, freezing, or grading
prior to delivery for storage of any agricultural
or horticultural commodity in its unmanufac-
tured state, all activities required for the prepa-
ration, processing, or manufacturing of a prod-
uct of agriculture (as such term is defined in
such section 3(f)) for further distribution, and
activities similar to all the foregoing as they re-
late to fish or shellfish facilities. An employee
described in this subparagraph shall not be
counted for purposes of subparagraph (A).

“(C) REVERIFICATION.—Paragraph
(1)(C)(ii) shall apply to reverifications pursuant
to this paragraph on the same basis as it ap-
plies to verifications pursuant to paragraph (1),
except that employers shall—

“(i) use a form designated or estab-
lished by the Secretary by regulation for
purposes of this paragraph; and

“(ii) retain a paper, microfiche, micro-
film, or electronic version of the form and
make it available for inspection by officers
of the Department of Homeland Security,
the Department of Justice, or the Depart-
ment of Labor during the period beginning
on the date the reverification commences
and ending on the date that is the later of
3 years after the date of such reverification
or 1 year after the date the individual’s
employment is terminated.

“(3) PREVIOUSLY HIRED INDIVIDUALS.—

“(A) ON A MANDATORY BASIS FOR CER-
TAIN EMPLOYEES.—

“(i) IN GENERAL.—Not later than the
date that is 6 months after the date of the
enactment of the Legal Workforce Act, an
employer shall make an inquiry, as pro-
vided in subsection (d), using the
verification system to seek verification of
the identity and employment eligibility of
any individual described in clause (ii) em-
ployed by the employer whose employment
eligibility has not been verified under the
E-Verify Program described in section
403(a) of the Illegal Immigration Reform
and Immigrant Responsibility Act of 1996

“(ii) INDIVIDUALS DESCRIBED.—An
individual described in this clause is any of
the following:

“(I) An employee of any unit of
a Federal, State, or local government.

“(II) An employee who requires a
Federal security clearance working in
a Federal, State, or local government
building, a military base, a nuclear
energy site, a weapons site, or an air-
port or other facility that requires
workers to carry a Transportation
Worker Identification Credential
(TWIC).

“(III) An employee assigned to
perform work in the United States
under a Federal contract, except that
this subclause—

“(aa) is not applicable to indi-
viduals who have a clearance
under Homeland Security Presi-
dential Directive 12 (HSPD 12
clearance), are administrative or
overhead personnel, or are work-
ing solely on contracts that pro-
vide Commercial Off The Shelf
goods or services as set forth by
the Federal Acquisition Regu-
latory Council, unless they are
subject to verification under sub-
clause (II); and

“(bb) only applies to con-
tracts over the simple acquisition
threshold as defined in section
2.101 of title 48, Code of Federal
Regulations.

“(B) ON A MANDATORY BASIS FOR MUL-
TIPLE USERS OF SAME SOCIAL SECURITY AC-
COUNT NUMBER.—In the case of an employer
who is required by this subsection to use the
verification system described in subsection (d),
or has elected voluntarily to use such system,
the employer shall make inquiries to the system
in accordance with the following:

“(i) The Commissioner of Social Secu-
rity shall notify annually employees (at the
employee address listed on the Wage and
Tax Statement) who submit a social secu-

rity account number to which more than
one employer reports income and for which
there is a pattern of unusual multiple use.
The notification letter shall identify the
number of employers to which income is
being reported as well as sufficient infor-
mation notifying the employee of the proc-
ness to contact the Social Security Adminis-

tration Fraud Hotline if the employee be-

lieves the employee’s identity may have
been stolen. The notice shall not share in-
formation protected as private, in order to
avoid any recipient of the notice from
being in the position to further commit or
begin committing identity theft.

“(ii) If the person to whom the social
security account number was issued by the
Social Security Administration has been
identified and confirmed by the Commissioner, and indicates that the social security account number was used without their knowledge, the Secretary and the Commissioner shall lock the social security account number for employment eligibility verification purposes and shall notify the employers of the individuals who wrongfully submitted the social security account number that the employee may not be work eligible.

“(iii) Each employer receiving such notification of an incorrect social security account number under clause (ii) shall use the verification system described in subsection (d) to check the work eligibility status of the applicable employee within 10 business days of receipt of the notification.

“(C) ON A VOLUNTARY BASIS.—Subject to paragraph (2), and subparagraphs (A) through (C) of this paragraph, beginning on the date that is 30 days after the date of the enactment of the Legal Workforce Act, an employer may make an inquiry, as provided in subsection (d), using the verification system to seek verification
of the identity and employment eligibility of any individual employed by the employer. If an employer chooses voluntarily to seek verification of any individual employed by the employer, the employer shall seek verification of all individuals employed at the same geographic location or, at the option of the employer, all individuals employed within the same job category, as the employee with respect to whom the employer seeks voluntarily to use the verification system. An employer’s decision about whether or not voluntarily to seek verification of its current workforce under this subparagraph may not be considered by any government agency in any proceeding, investigation, or review provided for in this Act.

“(D) Verification.—Paragraph (1)(C)(ii) shall apply to verifications pursuant to this paragraph on the same basis as it applies to verifications pursuant to paragraph (1), except that employers shall—

“(i) use a form designated or established by the Secretary by regulation for purposes of this paragraph; and
“(ii) retain a paper, microfiche, microfilm, or electronic version of the form and make it available for inspection by officers of the Department of Homeland Security, the Department of Justice, or the Department of Labor during the period beginning on the date the verification commences and ending on the date that is the later of 3 years after the date of such verification or 1 year after the date the individual’s employment is terminated.

“(4) EARLY COMPLIANCE.—

“(A) FORMER E-VERIFY REQUIRED USERS, INCLUDING FEDERAL CONTRACTORS.—Notwithstanding the deadlines in paragraphs (1) and (2), beginning on the date of the enactment of the Legal Workforce Act, the Secretary is authorized to commence requiring employers required to participate in the E-Verify Program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), including employers required to participate in such program by reason of Federal acquisition laws (and regulations promulgated under those laws,
including the Federal Acquisition Regulation),
to commence compliance with the requirements
of this subsection (and any additional require-
ments of such Federal acquisition laws and reg-
ulation) in lieu of any requirement to partici-
pate in the E-Verify Program.

“(B) Former E-Verify voluntary
users and others desiring early compli-
ance.—Notwithstanding the deadlines in para-
graphs (1) and (2), beginning on the date of
the enactment of the Legal Workforce Act, the
Secretary shall provide for the voluntary com-
pliance with the requirements of this subsection
by employers voluntarily electing to participate
in the E-Verify Program described in section
403(a) of the Illegal Immigration Reform and
1324a note) before such date, as well as by
other employers seeking voluntary early compli-
ance.

“(5) Copying of documentation per-
mitted.—Notwithstanding any other provision of
law, the person or entity may copy a document pre-
sented by an individual pursuant to this subsection
and may retain the copy, but only (except as other-
wise permitted under law) for the purpose of complying with the requirements of this subsection.

“(6) LIMITATION ON USE OF FORMS.—A form designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and any other provision of Federal criminal law.

“(7) GOOD FAITH COMPLIANCE.—

“(A) IN GENERAL.—Except as otherwise provided in this subsection, a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

“(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

“(i) the failure is not de minimus;

“(ii) the Secretary of Homeland Security has explained to the person or entity the basis for the failure and why it is not de minimus;
“(iii) the person or entity has been provided a period of not less than 30 calendar days (beginning after the date of the explanation) within which to correct the failure; and

“(iv) the person or entity has not corrected the failure voluntarily within such period.

“(C) Exception for pattern or practice violators.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).

“(8) Single extension of deadlines upon certification.—In a case in which the Secretary of Homeland Security has certified to the Congress that the employment eligibility verification system required under subsection (d) will not be fully operational by the date that is 6 months after the date of the enactment of the Legal Workforce Act, each deadline established under this section for an employer to make an inquiry using such system shall be extended by 6 months. No other extension of such a deadline shall be made except as authorized under paragraph (1)(D)(iv).”.
(b) DATE OF HIRE.—Section 274A(h) of the Immig-
ration and Nationality Act (8 U.S.C. 1324a(h)) is
amended by adding at the end the following:

“(4) DEFINITION OF DATE OF HIRE.—As used
in this section, the term ‘date of hire’ means the
date of actual commencement of employment for
wages or other remuneration, unless otherwise speci-
ified.”.

SEC. 6103. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
TEM.

Section 274A(d) of the Immigration and Nationality
Act (8 U.S.C. 1324a(d)) is amended to read as follows:

“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
TEM.—

“(1) IN GENERAL.—Patterned on the employ-
ment eligibility confirmation system established
under section 404 of the Illegal Immigration Reform
1324a note), the Secretary of Homeland Security
shall establish and administer a verification system
through which the Secretary (or a designee of the
Secretary, which may be a nongovernmental enti-
ty)—

“(A) responds to inquiries made by per-
sons at any time through a toll-free telephone
line and other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(B) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirees as evidence of their compliance with their obligations under this section.

“(2) INITIAL RESPONSE.—The verification system shall provide confirmation or a tentative non-confirmation of an individual’s identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative non-confirmation, the verification system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

“(3) SECONDARY CONFIRMATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of tentative nonconfirmation, the Secretary shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation not later than 10 working days after the date on which the notice of the tentative noncon-
firmation is received by the employee. The Secretary, in consultation with the Commissioner, may extend this deadline once on a case-by-case basis for a period of 10 working days, and if the time is extended, shall document such extension within the verification system. The Secretary, in consultation with the Commissioner, shall notify the employee and employer of such extension. The Secretary, in consultation with the Commissioner, shall create a standard process of such extension and notification and shall make a description of such process available to the public. When final confirmation or nonconfirmation is provided, the verification system shall provide an appropriate code indicating such confirmation or nonconfirmation.

“(4) Design and Operation of System.—
The verification system shall be designed and operated—

“(A) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(B) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to reg-
ister all times when such inquiries are not re-
ceived;

“(C) with appropriate administrative, tech-
nical, and physical safeguards to prevent unau-
thorized disclosure of personal information;

“(D) to have reasonable safeguards against
the system’s resulting in unlawful discrimina-
tory practices based on national origin or citi-
zenship status, including—

“(i) the selective or unauthorized use
of the system to verify eligibility; or

“(ii) the exclusion of certain individ-
uals from consideration for employment as
a result of a perceived likelihood that addi-
tional verification will be required, beyond
what is required for most job applicants;

“(E) to maximize the prevention of iden-
tity theft use in the system; and

“(F) to limit the subjects of verification to
the following individuals:

“(i) Individuals hired, referred, or re-
cruited, in accordance with paragraph (1)
or (4) of subsection (b).
“(ii) Employees and prospective employees, in accordance with paragraph (1), (2), (3), or (4) of subsection (b).

“(iii) Individuals seeking to confirm their own employment eligibility on a voluntary basis.

“(5) RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security (and any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation)
under the verification system except as provided for in this section or section 205(c)(2)(I) of the Social Security Act.

“(6) Responsibilities of Secretary of Homeland Security.—As part of the verification system, the Secretary of Homeland Security (in consultation with any designee of the Secretary selected to establish and administer the verification system), shall establish a reliable, secure method, which, within the time periods specified under paragraphs (2) and (3), compares the name and alien identification or authorization number (or any other information as determined relevant by the Secretary) which are provided in an inquiry against such information maintained or accessed by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, whether the alien is authorized to be employed in the United States, or to the extent that the Secretary determines to be feasible and appropriate, whether the records available to the Secretary verify the identity or status of a national of the United States.

“(7) Updating Information.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a
manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

“(8) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—

“(A) NO NATIONAL IDENTIFICATION CARD.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

“(B) CRITICAL INFRASTRUCTURE.—The Secretary may authorize or direct any person or entity responsible for granting access to, protecting, securing, operating, administering, or regulating part of the critical infrastructure (as defined in section 1016(e) of the Critical Infrastructure Protection Act of 2001 (42 U.S.C. 5195c(e))) to use the verification system to the extent the Secretary determines that such use will assist in the protection of the critical infrastructure.
“(9) Remedies.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this paragraph.”.

SEC. 6104. RECRUITMENT, REFERRAL, AND CONTINUATION OF EMPLOYMENT.

(a) Additional Changes to Rules for Recruitment, Referral, and Continuation of Employment.—Section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)) is amended—

(1) in paragraph (1)(A), by striking “for a fee”;

(2) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) to hire, continue to employ, or to recruit or refer for employment in the United States an individual without complying with the requirements of subsection (b).”; and

(3) in paragraph (2), by striking “after hiring an alien for employment in accordance with paragraph (1),” and inserting “after complying with paragraph (1),”.”.
(b) DEFINITION.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)), as amended by section 6102(b) of this Act, is further amended by adding at the end the following:

“(5) DEFINITION OF RECRUIT OR REFER.—As used in this section, the term ‘refer’ means the act of sending or directing a person who is in the United States or transmitting documentation or information to another, directly or indirectly, with the intent of obtaining employment in the United States for such person. Only persons or entities referring for remuneration (whether on a retainer or contingency basis) are included in the definition, except that union hiring halls that refer union members or non-union individuals who pay union membership dues are included in the definition whether or not they receive remuneration, as are labor service entities or labor service agencies, whether public, private, for-profit, or nonprofit, that refer, dispatch, or otherwise facilitate the hiring of laborers for any period of time by a third party. As used in this section, the term ‘recruit’ means the act of soliciting a person who is in the United States, directly or indirectly, and referring the person to another with the intent of obtaining employment for that person. Only per-
sons or entities referring for remuneration (whether
on a retainer or contingency basis) are included in
the definition, except that union hiring halls that
refer union members or nonunion individuals who
pay union membership dues are included in this defi-

nition whether or not they receive remuneration, as
are labor service entities or labor service agencies,
whether public, private, for-profit, or nonprofit that
recruit, dispatch, or otherwise facilitate the hiring of
laborers for any period of time by a third party.”.

(c) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date that is 1 year
after the date of the enactment of this Act, except that
the amendments made by subsection (a) shall take effect
6 months after the date of the enactment of this Act inso-
far as such amendments relate to continuation of employ-
ment.

SEC. 6105. GOOD FAITH DEFENSE.

Section 274A(a)(3) of the Immigration and Nation-
ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
follows:

“(3) GOOD FAITH DEFENSE.—

“(A) DEFENSE.—An employer (or person
or entity that hires, employs, recruits, or refers
(as defined in subsection (h)(5)), or is otherwise
obligated to comply with this section) who estab-
ishes that it has complied in good faith with the
requirements of subsection (b)—

“(i) shall not be liable to a job appli-
cant, an employee, the Federal Govern-
ment, or a State or local government, under Federal, State, or local criminal or civil law for any employment-related action taken with respect to a job applicant or employee in good-faith reliance on informa-
tion provided through the system estab-
lished under subsection (d); and

“(ii) has established compliance with its obligations under subparagraphs (A) and (B) of paragraph (1) and subsection (b) absent a showing by the Secretary of Homeland Security, by clear and con-
vincing evidence, that the employer had knowledge that an employee is an unau-
thorized alien.

“(B) MITIGATION ELEMENT.—For pur-
poses of subparagraph (A)(i), if an employer proves by a preponderance of the evidence that the employer uses a reasonable, secure, and es-
tablished technology to authenticate the identity
of the new employee, that fact shall be taken
into account for purposes of determining good
faith use of the system established under sub-
section (d).

“(C) Failure to seek and obtain verification.—Subject to the effective dates
and other deadlines applicable under subsection
(b), in the case of a person or entity in the
United States that hires, or continues to em-
ploy, an individual, or recruits or refers an indi-
vidual for employment, the following require-
ments apply:

“(i) Failure to seek verification.—

“(I) In general.—If the person
or entity has not made an inquiry,
under the mechanism established
under subsection (d) and in accord-
ance with the timeframes established
under subsection (b), seeking
verification of the identity and work
eligibility of the individual, the de-
defense under subparagraph (A) shall
not be considered to apply with re-
spect to any employment, except as
provided in subclause (II).

“(II) Special rule for failure of verification mechanism.—
If such a person or entity in good
faith attempts to make an inquiry in
order to qualify for the defense under
subparagraph (A) and the verification
mechanism has registered that not all
inquiries were responded to during the
relevant time, the person or entity can
make an inquiry until the end of the
first subsequent working day in which
the verification mechanism registers
no nonresponses and qualify for such
defense.

“(ii) Failure to obtain verification.—If the person or entity
has made the inquiry described in clause
(i)(I) but has not received an appropriate
verification of such identity and work eligi-
bility under such mechanism within the
time period specified under subsection
(d)(2) after the time the verification in-
quiry was received, the defense under sub-
paragraph (A) shall not be considered to apply with respect to any employment after the end of such time period.”.

**SEC. 6106. PREEMPTION AND STATES’ RIGHTS.**

Section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)) is amended to read as follows:

“(2) PREEMPTION.—

“(A) SINGLE, NATIONAL POLICY.—The provisions of this section preempt any State or local law, ordinance, policy, or rule, including any criminal or civil fine or penalty structure, insofar as they may now or hereafter relate to the hiring, continued employment, or status verification for employment eligibility purposes, of unauthorized aliens.

“(B) STATE ENFORCEMENT OF FEDERAL LAW.—

“(i) BUSINESS LICENSING.—A State, locality, municipality, or political subdivision may exercise its authority over business licensing and similar laws as a penalty for failure to use the verification system described in subsection (d) to verify
employment eligibility when and as re-
quired under subsection (b).

“(ii) GENERAL RULES.—A State, at
its own cost, may enforce the provisions of
this section, but only insofar as such State
follows the Federal regulations imple-
menting this section, applies the Federal
penalty structure set out in this section,
and complies with all Federal rules and
guidance concerning implementation of this
section. Such State may collect any fines
assessed under this section. An employer
may not be subject to enforcement, includ-
ing audit and investigation, by both a Fed-
eral agency and a State for the same viola-
tion under this section. Whichever entity,
the Federal agency or the State, is first to
initiate the enforcement action, has the
right of first refusal to proceed with the
enforcement action. The Secretary must
provide copies of all guidance, training,
and field instructions provided to Federal
officials implementing the provisions of
this section to each State.”.
SEC. 6107. REPEAL.

(a) IN GENERAL.—Subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is repealed.

(b) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the Social Security Administration, to the employment eligibility confirmation system established under section 404 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is deemed to refer to the employment eligibility confirmation system established under section 274A(d) of the Immigration and Nationality Act, as amended by section 6103 of this Act.

(c) EFFECTIVE DATE.—This section shall take effect on the date that is 30 months after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The table of sections, in section 1(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is amended by striking the items relating to subtitle A of title IV.

SEC. 6108. PENALTIES.

Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(1)—
(A) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(B) in subparagraph (D), by striking “Service” and inserting “Department of Homeland Security”;

(2) in subsection (e)(4)—

(A) in subparagraph (A), in the matter before clause (i), by inserting “, subject to paragraph (10),” after “in an amount”;

(B) in subparagraph (A)(i), by striking “not less than $250 and not more than $2,000” and inserting “not less than $2,500 and not more than $5,000”;

(C) in subparagraph (A)(ii), by striking “not less than $2,000 and not more than $5,000” and inserting “not less than $5,000 and not more than $10,000”;

(D) in subparagraph (A)(iii), by striking “not less than $3,000 and not more than $10,000” and inserting “not less than $10,000 and not more than $25,000”; and

(E) by moving the margin of the continuation text following subparagraph (B) two ems
to the left and by amending subparagraph (B) to read as follows:

“(B) may require the person or entity to take such other remedial action as is appropriate.”;

(3) in subsection (e)(5)—

(A) in the paragraph heading, strike “PAPERWORK”;

(B) by inserting “, subject to paragraphs (10) through (12),” after “in an amount”;

(C) by striking “$100” and inserting “$1,000”; 

(D) by striking “$1,000” and inserting “$25,000”; and

(E) by adding at the end the following:

“Failure by a person or entity to utilize the employment eligibility verification system as required by law, or providing information to the system that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A).”; 

(4) by adding at the end of subsection (e) the following:

“(10) EXEMPTION FROM PENALTY FOR GOOD FAITH VIOLATION.—In the case of imposition of a
civil penalty under paragraph (4)(A) with respect to
a violation of subsection (a)(1)(A) or (a)(2) for hir-
ing or continuation of employment or recruitment or
referral by person or entity and in the case of impos-
tion of a civil penalty under paragraph (5) for a
violation of subsection (a)(1)(B) for hiring or re-
cruitment or referral by a person or entity, the pen-
alty otherwise imposed may be waived or reduced if
the violator establishes that the violator acted in
good faith.

“(11) MITIGATION ELEMENT.—For purposes of
paragraph (4), the size of the business shall be
taken into account when assessing the level of civil
money penalty.

“(12) AUTHORITY TO DEBAR EMPLOYERS FOR
CERTAIN VIOLATIONS.—

“(A) IN GENERAL.—If a person or entity
is determined by the Secretary of Homeland Se-
curity to be a repeat violator of paragraph
(1)(A) or (2) of subsection (a), or is convicted
of a crime under this section, such person or
entity may be considered for debarment from
the receipt of Federal contracts, grants, or co-
operative agreements in accordance with the debar-
ment standards and pursuant to the debar-
ment procedures set forth in the Federal Acquisition Regulation.

“(B) DOES NOT HAVE CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such a person or entity does not hold a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall refer the matter to the Administrator of General Services to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(C) HAS CONTRACT, GRANT, AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have a person or entity considered for debarment in accordance with this paragraph, and such person or entity holds a Federal contract, grant, or cooperative agreement, the Secretary or Attorney General shall advise all agencies or departments holding a contract, grant, or cooperative agreement with the person or entity of the Govern-
ment’s interest in having the person or entity considered for debarment, and after soliciting and considering the views of all such agencies and departments, the Secretary or Attorney General may refer the matter to any appropriate lead agency to determine whether to list the person or entity on the List of Parties Excluded from Federal Procurement, and if so, for what duration and under what scope.

“(D) REVIEW.—Any decision to debar a person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4 of the Federal Acquisition Regulation.

“(13) OFFICE FOR STATE AND LOCAL GOVERNMENT COMPLAINTS.—The Secretary of Homeland Security shall establish an office—

“(A) to which State and local government agencies may submit information indicating potential violations of subsection (a), (b), or (g)(1) that were generated in the normal course of law enforcement or the normal course of other official activities in the State or locality;

“(B) that is required to indicate to the complaining State or local agency within five business days of the filing of such a complaint
by identifying whether the Secretary will further investigate the information provided;

“(C) that is required to investigate those complaints filed by State or local government agencies that, on their face, have a substantial probability of validity;

“(D) that is required to notify the complaining State or local agency of the results of any such investigation conducted; and

“(E) that is required to report to the Congress annually the number of complaints received under this paragraph, the States and localities that filed such complaints, and the resolution of the complaints investigated by the Secretary.”; and

(5) by amending paragraph (1) of subsection (f) to read as follows:

“(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of subsection (a) (1) or (2) shall be fined not more than $5,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not more than 18 months, or both, notwithstanding the provisions of any other Federal law relating to fine levels.”.
SEC. 6109. FRAUD AND MISUSE OF DOCUMENTS.

Section 1546(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “identification document,” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”;

and

(2) in paragraph (2), by striking “identification document” and inserting “identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),”.

SEC. 6110. PROTECTION OF SOCIAL SECURITY ADMINISTRATION PROGRAMS.

(a) FUNDING UNDER AGREEMENT.—Effective for fiscal years beginning on or after October 1, 2025, the Commissioner of Social Security and the Secretary of Homeland Security shall enter into and maintain an agreement which shall—

(1) provide funds to the Commissioner for the full costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by
section 6103 of this Act, including (but not limited to)—

(A) acquiring, installing, and maintaining technological equipment and systems necessary for the fulfillment of the responsibilities of the Commissioner under such section 274A(d), but only that portion of such costs that are attributable exclusively to such responsibilities; and

(B) responding to individuals who contest a tentative nonconfirmation provided by the employment eligibility verification system established under such section;

(2) provide such funds annually in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary (except in such instances where the delayed enactment of an annual appropriation may preclude such quarterly payments); and

(3) require an annual accounting and reconciliation of the actual costs incurred and the funds provided under the agreement, which shall be reviewed by the Inspectors General of the Social Security Administration and the Department of Homeland Security.
(b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.—In any case in which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2025, has not been reached as of October 1 of such fiscal year, the latest agreement between the Commissioner and the Secretary of Homeland Security providing for funding to cover the costs of the responsibilities of the Commissioner under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)) shall be deemed in effect on an interim basis for such fiscal year until such time as an agreement required under subsection (a) is subsequently reached, except that the terms of such interim agreement shall be modified by the Director of the Office of Management and Budget to adjust for inflation and any increase or decrease in the volume of requests under the employment eligibility verification system. In any case in which an interim agreement applies for any fiscal year under this subsection, the Commissioner and the Secretary shall, not later than October 1 of such fiscal year, notify the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Appropriations of the Senate of the failure to reach the
agreement required under subsection (a) for such fiscal year. Until such time as the agreement required under subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations between the Commissioner and the Secretary in order to reach such an agreement.

SEC. 6111. FRAUD PREVENTION.

(a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program in which social security account numbers that have been identified to be subject to unusual multiple use in the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 6103 of this Act, or that are otherwise suspected or determined to have been compromised by identity fraud or other misuse, shall be blocked from use for such system purposes unless the individual using such number is able to establish, through secure and fair additional security procedures, that the individual is the legitimate holder of the number.
(b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which shall provide a reliable, secure method by which victims of identity fraud and other individuals may suspend or limit the use of their social security account number or other identifying information for purposes of the employment eligibility verification system established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 6103 of this Act. The Secretary may implement the program on a limited pilot program basis before making it fully available to all individuals.

(c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall establish a program which shall provide a reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security account number or other identifying information of a minor under their care for the purposes of the employment eligibility verification system established under 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 6103 of this Act. The Secretary
may implement the program on a limited pilot program basis before making it fully available to all individuals.

SEC. 6112. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION PHOTO TOOL.

An employer who uses the photo matching tool used as part of the E-Verify System shall match the photo tool photograph to both the photograph on the identity or employment eligibility document provided by the employee and to the face of the employee submitting the document for employment verification purposes.

SEC. 6113. IDENTITY AUTHENTICATION EMPLOYMENT ELIGIBILITY VERIFICATION PILOT PROGRAMS.

Not later than 24 months after the date of the enactment of this Act, the Secretary of Homeland Security, after consultation with the Commissioner of Social Security and the Director of the National Institute of Standards and Technology, shall establish by regulation not less than 2 Identity Authentication Employment Eligibility Verification pilot programs, each using a separate and distinct technology (the “Authentication Pilots”). The purpose of the Authentication Pilots shall be to provide for identity authentication and employment eligibility verification with respect to enrolled new employees which shall be available to any employer that elects to participate in either of the Authentication Pilots. Any participating em-
ployer may cancel the employer’s participation in the Authentication Pilot after one year after electing to participate without prejudice to future participation. The Secretary shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Secretary’s findings on the Authentication Pilots, including the authentication technologies chosen, not later than 12 months after commencement of the Authentication Pilots.

SEC. 6114. INSPECTOR GENERAL AUDITS.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Social Security Administration shall complete audits of the following categories in order to uncover evidence of individuals who are not authorized to work in the United States:

(1) Workers who dispute wages reported on their social security account number when they believe someone else has used such number and name to report wages.

(2) Children’s social security account numbers used for work purposes.

(3) Employers whose workers present significant numbers of mismatched social security account numbers or names for wage reporting.
(b) SUBMISSION.—The Inspector General of the Social Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of individuals who are not authorized to work in the United States. The Chairmen of those Committees shall then determine information to be shared with the Secretary of Homeland Security so that such Secretary can investigate the unauthorized employment demonstrated by such evidence.

SEC. 6115. NATIONWIDE E-VERIFY AUDIT.

Not later than 5 years after the date of enactment of this Act, the Secretary of Commerce shall conduct a nationwide audit of compliance with the requirements of section 274A(b) of the Immigration and Nationality Act by employers in all States, and shall report compliance levels on a State-by-State basis. No person may receive a visa under section 4005 of division B of this Act or register for the Redemption Program under subtitle B of title IV of such division until the Secretary certifies that all employers in all States are in compliance with the requirements of section 274A(b) of the Immigration and Nationality Act.
TITLE W—SARAH AND GRANT'S LAW

SEC. 7101. SARAH AND GRANT'S LAW.

(a) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENTS.—(A) Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by striking “Attorney General” each place it appears (except in the second place that term appears in section 236(a)) and inserting “Secretary of Homeland Security”.

(B) Section 236(a) of such Act (8 U.S.C. 1226(a)) is amended by inserting “the Secretary of Homeland Security or” before “the Attorney General—”.

(C) Section 236(e) of such Act (8 U.S.C. 1226(e)) is amended by striking “Attorney General’s” and inserting “Secretary of Homeland Security’s”.

(2) LENGTH OF DETENTION.—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) LENGTH OF DETENTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, an alien may be detained,
and for an alien described in subsection (c) shall be
detained, under this section without time limitation,
except as provided in subsection (h), during the
pendency of removal proceedings.

“(2) CONSTRUCTION.—The length of detention
under this section shall not affect detention under
section 241.”.

(3) DETENTION OF CRIMINAL ALIENS.—Section
236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is
amended—

(A) in subparagraph (C), by striking “or”
at the end;

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

“(E) is unlawfully present in the United
States and has been convicted for driving while
intoxicated (including a conviction for driving
while under the influence or impaired by alcohol
or drugs) without regard to whether the convic-
tion is classified as a misdemeanor or felony
under State law, or

“(F)(i)(I) is inadmissible under section
212(a)(6)(i),

“(II) is deportable by reason of a visa rev-
ocation under section 221(i), or
“(III) is deportable under section 237(a)(1)(C)(i), and

“(ii) has been arrested or charged with a particularly serious crime or a crime resulting in the death or serious bodily injury (as defined in section 1365(h)(3) of title 18, United States Code) of another person;”; and

(C) by amending the matter following subparagraph (F) (as added by subparagraph (B) of this paragraph) to read as follows:

“any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, supervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary, then when the alien is brought to the attention of the Secretary or when the Secretary determines it is practical to take such alien into custody, the Secretary shall take such alien into custody.”.

(4) ADMINISTRATIVE REVIEW.—Section 236 of the Immigration and Nationality Act (8 U.S.C.
1226), as amended by paragraph (2), is further amended by adding at the end the following:

“(g) ADMINISTRATIVE REVIEW.—The Attorney General’s review of the Secretary’s custody determinations under subsection (a) for the following classes of aliens shall be limited to whether the alien may be detained, released on bond (of at least $1,500 with security approved by the Secretary), or released with no bond:

“(1) Aliens in exclusion proceedings.

“(2) Aliens described in section 212(a)(3) or 237(a)(4).

“(3) Aliens described in subsection (c).

“(h) RELEASE ON BOND.—

“(1) IN GENERAL.—An alien detained under subsection (a) may seek release on bond. No bond may be granted except to an alien who establishes by clear and convincing evidence that the alien is not a flight risk or a danger to another person or the community.

“(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.”.

(5) CLERICAL AMENDMENTS.—(A) Section 236(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-
ing “conditional parole” and inserting “recognizance”.

(B) Section 236(b) of such Act (8 U.S.C. 1226(b)) is amended by striking “parole” and inserting “recognizance”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any alien in detention under the provisions of section 236 of the Immigration and Nationality Act (8 U.S.C. 1226), as so amended, or otherwise subject to the provisions of such section, on or after such date.

SEC. 7102. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.

(a) IN GENERAL.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended to read as follows:

“ILLEGAL ENTRY OR PRESENCE

SEC. 275. (a) IN GENERAL.—

“(1) ILLEGAL ENTRY OR PRESENCE.—An alien 18 years of age or older shall be subject to the penalties set forth in paragraph (2) if the alien—

“(A) knowingly eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including by failing to stop at the command of such officer);
“(B) knowingly enters or crosses the border to the United States and, upon examination or inspection, knowingly makes a false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws);

“(C) knowingly violates the terms or conditions of the alien’s admission or parole into the United States and has remained in violation for an aggregate period of 90 days or more; or

“(D) knowingly is unlawfully present in the United States (as defined in section 212(a)(9)(B)(ii) subject to the exceptions set forth in section 212(a)(9)(B)(iii)) and has remained in violation for an aggregate period of 90 days or more.

“(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

“(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 2 years, or both;
“(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 5 years (or not more than 2 years in the case of a second or subsequent violation of paragraph (1)(E)), or both;

“(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

“(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 20 years, or both; and

“(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 25 years, or both.

“(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of
paragraph (2) are elements of the offenses described
and the penalties in such subparagraphs shall apply
only in cases in which the conviction or convictions
that form the basis for the additional penalty are—

“(A) alleged in the indictment or information; and

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

“(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer, or until the alien is granted a valid visa or relief from removal.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section may be punished in the same manner as for a completion of such offense.

“(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—
“(1) not less than $50 or more than $5,000 for
each such entry, crossing, attempted entry, or at-
ttempted crossing; or

“(2) not more than $25,000 if the alien had
previously been subject to a civil penalty under this
subsection.”.

(b) CLERICAL AMENDMENT.—The table of contents
for the Immigration and Nationality Act is amended by
striking the item relating to section 275 and inserting the
following:

“Sec. 275. Illegal entry or presence.”.

(c) EFFECTIVE DATES AND APPLICABILITY.—

(1) CRIMINAL PENALTIES.—Section 275(a) of
the Immigration and Nationality Act (8 U.S.C.
1325(a)), as amended by subsection (a), shall take
effect 180 days after the date of the enactment of
this Act, and shall apply to acts, conditions, or viola-
tions described in such section 275(a) that occur or
exist on or after such effective date.

(2) CIVIL PENALTIES.—Section 275(b) of the
Immigration and Nationality Act (8 U.S.C.
1325(b)), as amended by subsection (a), shall take
effect on the date of the enactment of this Act and
shall apply to acts described in such section 275(b)
that occur before, on, or after such date.
SECTION 7103. ILLEGAL REENTRY.

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

“SEC. 276. REENTRY OF REMOVED ALIEN.

“(a) REENTRY AFTER REMOVAL.—

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

“(2) EXCEPTION.—If an alien sought and received the express consent of the Secretary to reapply for admission into the United States, or, with respect to an alien previously denied admission and removed, the alien was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act, the alien shall not be subject to the fine and imprisonment provided for in paragraph (1).

“(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an
alien described in that subsection was convicted before such removal or departure—

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

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

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

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

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

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

“(1) alleged in the indictment or information; and

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

“(e) Reentry of Alien Removed Prior to Completion of Term of Imprisonment.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.
“(f) Definitions.—For purposes of this section and section 275, the following definitions shall apply:

“(1) Crosses the border to the United States.—The term ‘crosses the border’ refers to the physical act of crossing the border free from official restraint.

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

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

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

“(5) Removal.—The term ‘removal’ includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.
“(6) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

**TITLE X—GANG MEMBER REMOVAL**

**SEC. 8101. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.**

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

“(53)(A) The term ‘criminal gang’ means an association of 5 or more individuals—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(ii) ALIENS PHYSICALLY PRESENT IN THE UNITED STATES.—In the case of an alien who is physically present in the United States, that alien is inadmissible if the alien—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Designation.—

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

“DESIGNATION OF CRIMINAL GANG

“Sec. 220.

“(a) Designation.—
(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, may designate a group, club, organization, or association of 5 or more persons as a criminal gang if the Secretary finds that their conduct is described in section 101(a)(53).

(2) PROCEDURE.—

(A) NOTIFICATION.—60 days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees of the House of Representatives and the Senate, in writing, of the intent to designate a group, club, organization, or association of 5 or more persons under this subsection and the factual basis therefor.

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

(3) RECORD.—

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

“(4) PERIOD OF DESIGNATION.—

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

“(B) REVIEW OF DESIGNATION UPON PETITION.—

“(i) IN GENERAL.—The Secretary shall review the designation of a criminal gang under the procedures set forth in clauses (iii) and (iv) if the designated group, club, organization, or association of 5 or more persons files a petition for revocation within the petition period described in clause (ii).

“(ii) PETITION PERIOD.—For purposes of clause (i)—
“(I) if the designated group, club, organization, or association of 5 or more persons has not previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date on which the designation was made; or

“(II) if the designated group, club, organization, or association of 5 or more persons has previously filed a petition for revocation under this subparagraph, the petition period begins 2 years after the date of the determination made under clause (iv) on that petition.

“(iii) PROCEDURES.—Any group, club, organization, or association of 5 or more persons that submits a petition for revocation under this subparagraph of its designation as a criminal gang must provide evidence in that petition that it is not described in section 101(a)(53).

“(iv) DETERMINATION.—

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

“(II) **Classified Information.**—
The Secretary may consider classified information in making a determination in response to a petition for revocation. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection (c).

“(III) **Publication of Determination.**—A determination made by the Secretary under this clause shall be published in the Federal Register.

“(IV) **Procedures.**—Any revocation by the Secretary shall be made in accordance with paragraph (6).

“(C) **Other Review of Designation.**—

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

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

“(iii) PUBLICATION OF RESULTS OF REVIEW.—The Secretary shall publish any determination made pursuant to this subparagraph in the Federal Register.

“(5) REVOCATION BY ACT OF CONGRESS.—The Congress, by an Act of Congress, may block or revoke a designation made under paragraph (1).

“(6) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

“(A) IN GENERAL.—The Secretary may revoke a designation made under paragraph (1) at any time, and shall revoke a designation upon completion of a review conducted pursuant to subparagraphs (B) and (C) of paragraph (4) if the Secretary finds that—
“(i) the group, club, organization, or association of 5 or more persons that has been designated as a criminal gang is no longer described in section 101(a)(53); or

“(ii) the national security or the law enforcement interests of the United States warrants a revocation.

“(B) PROCEDURE.—The procedural requirements of paragraphs (2) and (3) shall apply to a revocation under this paragraph. Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

“(7) EFFECT OF REVOCATION.—The revocation of a designation under paragraph (5) or (6) shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

“(8) USE OF DESIGNATION IN TRIAL OR HEARING.—If a designation under this subsection has become effective under paragraph (2) an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation as a defense or an objection.

“(b) AMENDMENTS TO A DESIGNATION,—
“(1) IN GENERAL.—The Secretary may amend a designation under this subsection if the Secretary finds that the group, club, organization, or association of 5 or more persons has changed its name, adopted a new alias, dissolved and then reconstituted itself under a different name or names, or merged with another group, club, organization, or association of 5 or more persons.

“(2) PROCEDURE.—Amendments made to a designation in accordance with paragraph (1) shall be effective upon publication in the Federal Register. Paragraphs (2), (4), (5), (6), (7), and (8) of subsection (a) shall also apply to an amended designation.

“(3) ADMINISTRATIVE RECORD.—The administrative record shall be corrected to include the amendments as well as any additional relevant information that supports those amendments.

“(4) CLASSIFIED INFORMATION.—The Secretary may consider classified information in amending a designation in accordance with this subsection. Classified information shall not be subject to disclosure for such time as it remains classified, except that such information may be disclosed to a court ex
parte and in camera for purposes of judicial review under subsection (c) of this section.

“(c) JUDICIAL REVIEW OF DESIGNATION.—

“(1) IN GENERAL.—Not later than 30 days after publication in the Federal Register of a designation, an amended designation, or a determination in response to a petition for revocation, the designated group, club, organization, or association of 5 or more persons may seek judicial review in the United States Court of Appeals for the District of Columbia Circuit.

“(2) BASIS OF REVIEW.—Review under this subsection shall be based solely upon the administrative record, except that the Government may submit, for ex parte and in camera review, classified information used in making the designation, amended designation, or determination in response to a petition for revocation.

“(3) SCOPE OF REVIEW.—The Court shall hold unlawful and set aside a designation, amended designation, or determination in response to a petition for revocation the court finds to be—

“(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
“(B) contrary to constitutional right, power, privilege, or immunity;

“(C) in excess of statutory jurisdiction, authority, or limitation, or short of statutory right;

“(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2); or

“(E) not in accord with the procedures required by law.

“(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review of a designation, amended designation, or determination in response to a petition for revocation shall not affect the application of this section, unless the court issues a final order setting aside the designation, amended designation, or determination in response to a petition for revocation.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘classified information’ has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);
“(2) the term ‘national security’ means the national defense, foreign relations, or economic interests of the United States;

“(3) the term ‘relevant committees’ means the Committees on the Judiciary of the Senate and of the House of Representatives; and

“(4) the term ‘Secretary’ means the Secretary of Homeland Security, in consultation with the Attorney General.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

“Sec. 220. Designation.”.

(e) MANDATORY DETENTION OF CRIMINAL GANG MEMBERS.—

(1) IN GENERAL.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)), as amended by this division, is further amended—

(A) in subparagraph (E), by striking “or” at the end;

(B) in subparagraph (F), by inserting “or” at the end; and

(C) by inserting after subparagraph (F) the following:
“(G) is inadmissible under section 212(a)(2)(N) or deportable under section 237(a)(2)(H),”.

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Represent-atives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

TITLE Y—ASYLUM REFORM

SEC. 9101. REGIONAL PROCESSING CENTERS.

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

“SEC. 437. REGIONAL PROCESSING CENTERS.

“(a) IN GENERAL.—Not later than 24 months after the effective date of this section, the Secretary shall establish not fewer than 4 regional processing centers located in high traffic sectors of U.S. Border Patrol, as determined by the Secretary, along the southern border land border of the United States (referred to in this section as a ‘regional processing center’).
“(b) PURPOSE.—The regional processing centers shall carry out processing and management activities for family units apprehended at the border, including—

“(1) criminal history checks;

“(2) identity verification;

“(3) biometrics collection and analysis;

“(4) medical screenings;

“(5) asylum interviews and credible fear determinations under section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) and reasonable fear determinations under section 241(b)(3)(B) of that Act (8 U.S.C. 1231(b)(3)(B));

“(6) facilitating coordination and communication between Federal entities and nongovernmental organizations that are directly involved in providing assistance to aliens;

“(7) legal orientation programming and communication between aliens and outside legal counsel;

“(8) issuance of legal documents relating to immigration court proceedings of aliens; and

“(9) any other activity the Secretary considers appropriate.

“(c) PERSONNEL AND LIVING CONDITIONS.—The regional processing centers shall include—

“(1) personnel assigned from—
“(A) U.S. Customs and Border Protection;

“(B) U.S. Immigration and Customs Enforcement;

“(C) the Federal Emergency Management Agency;

“(D) U.S. Citizenship and Immigration Services; and

“(E) the Office of Refugee Resettlement;

“(2) upon agreement with an applicable Federal agency, personnel from such Federal agency who are assigned to the regional processing center;

“(3) sufficient medical staff, including physicians specializing in pediatric or family medicine, nurse practitioners, and physician assistants;

“(4) licensed social workers;

“(5) mental health professionals;

“(6) child advocates appointed by the Secretary of Health and Human Services under section 235(c)(6)(B) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(6)(B)); and

“(7) sufficient space to carry out the processing and management activities described in subsection (b).
“(d) CRIMINAL HISTORY CHECKS.—Each criminal
history check carried out under subsection (b)(1) shall be
conducted using a set of fingerprints or other biometric
identifier obtained from—

“(1) the Federal Bureau of Investigation;
“(2) the criminal history repositories of all
States that the individual listed as a current or
former residence; and
“(3) any other appropriate Federal or State
database resource or repository, as determined by
the Secretary.

“(e) EXCEPTIONS FOR ADDITIONAL PURPOSES.—
Subject to operational and spatial availability, in the event
of a major disaster or emergency declared under the Rob-
ert T. Stafford Disaster Relief and Emergency Assistance
Act (42 U.S.C. 5121 et seq.) or any homeland security
crisis requiring the establishment of a departmental Joint
Task Force under section 708(b), the Secretary may tem-
porarily utilize a regional processing center to carry out
operations relating to such declaration or crisis.

“(f) DONATIONS.—The Department may accept do-
nations from private entities, nongovernmental organiza-
tions, and other groups independent of the Federal Gov-
ernment for the care of children and family units detained
at a regional processing center, including—
“(1) medical goods and services;

“(2) school supplies;

“(3) toys;

“(4) clothing; and

“(5) any other item intended to promote the well-being of such children and family units.

“(g) ACCESS TO FACILITIES FOR PRIVATE ENTITIES AND NONGOVERNMENTAL ORGANIZATIONS.—

“(1) IN GENERAL.—Private entities and non-governmental organizations that are directly involved in providing humanitarian or legal assistance to families and individuals encountered by the Department along the southwest border of the United States, or organizations that provide assistance to detained individuals, shall have access to regional processing centers for purposes of—

“(A) legal orientation programming;

“(B) coordination with the Department with respect to the care of families and individuals held in regional processing centers, including the care of families and individuals who are released or scheduled to be released;

“(C) communication between aliens and outside legal counsel;
“(D) the provision of humanitarian assistance; and

“(E) any other purpose the Secretary considers appropriate.

“(2) ACCESS PLAN.—Not later than 60 days after the date of the enactment of this section, the Secretary shall publish in the Federal Register procedures relating to access to regional processing centers under paragraph (1) that ensure—

“(A) the safety of personnel of, and aliens detained in, regional processing centers; and

“(B) the orderly management and operation of regional processing centers.

“(h) LEGAL COUNSEL.—Aliens detained in a regional processing center shall have access to legal counsel in accordance with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), including the opportunity to consult with counsel before any legally determinative aspect of the asylum process occurs.

“(i) PROCEDURES TO FACILITATE COMMUNICATION WITH COUNSEL.—The Secretary shall develop written procedures to permit aliens detained in a regional processing center to visit with, and make confidential telephone calls to, legal representatives and legal services providers and to receive incoming calls from legal representa-
ties and legal services providers, in a private and confi-
dential space while in custody, for the purposes of retain-
ing or consulting with counsel or obtaining legal advice
from legal services providers.

“(j) LEGAL ORIENTATION.—

“(1) IN GENERAL.—An alien detained in a re-
gional processing center shall be provided the oppor-
tunity to receive a complete legal orientation presen-
tation administered by a nongovernmental organiza-
tion in cooperation with the Executive Office for Im-
migration Review.

“(2) TIMELINE.—

“(A) IN GENERAL.—The Secretary shall
prioritize the provision of the legal orientation
presentation required by paragraph (1) to an
alien within 12 hours of apprehension.

“(B) REQUIREMENT.—In the case of an
alien who does not receive such legal orientation
presentation within 12 hours of apprehension,
the Secretary shall ensure that the alien re-
cieves the presentation—

“(i) not later than 24 hours after ap-
prehension; and

“(ii) not less than 24 hours before the
alien initially appears before an asylum of-
ficer or immigration judge in connection
with a claim for asylum.

“(k) MANAGEMENT OF REGIONAL PROCESSING CEN-
TERS.—

“(1) OPERATION.—The Commissioner of U.S. 
Customs and Border Protection, in consultation with
the interagency coordinating council established
under paragraph (2), shall operate the regional proc-
cessing centers.

“(2) INTERAGENCY COORDINATING COM-
MITTEE.—

“(A) ESTABLISHMENT.—There is estab-
lished an interagency coordinating committee
for the purpose of coordinating operations and
management of the regional processing centers.

“(B) MEMBERSHIP.—The interagency co-
ordinating committee shall be chaired by the
Commissioner of U.S. Customs and Border
Protection, or his or her designee, and shall in-
clude representatives designated by the heads of
the following agencies:

“(i) U.S. Immigration and Customs
Enforcement.

“(ii) The Federal Emergency Manage-
ment Agency.
“(iii) U.S. Citizenship and Immigration Services.

“(iv) The Office of Refugee Resettlement.

“(v) Any other agency that supplies personnel to the regional processing centers, upon agreement between the Commissioner of U.S. Customs and Border Protection and the head of such other agency.”

SEC. 9102. CODIFICATION OF FLORES SETTLEMENT.

Except as otherwise provided in this Act and the amendments made by this Act, the stipulated settlement agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85–4544–RJK) (commonly known as the “Flores settlement agreement”), shall apply hereafter to the detention and custody of minor aliens and their family members subject to detention in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 9103. EXPEDITED ASYLUM ADJUDICATIONS.

(a) In General.—Notwithstanding any other provision of law, in the case of an application for asylum under section 208 of the Immigration and Nationality Act made by an alien who is traveling with the spouse or child of that alien, of by an unaccompanied alien child (as such
term is defined in section 462(g) of the Homeland Security Act of 2002), such an application shall be given priority in processing and consideration, including in accordance with the requirements of this section.

(b) Prioritization; Discretion to Waive.—Except as otherwise provided in this section, an application described in subsection (a) shall be processed and considered by an immigration judge prior to any other application for asylum under the immigration laws based on the month that the application was filed, starting with the most recent month and working backwards. The Attorney General may temporarily waive the application of this subsection on a case by case basis for purposes of relieving any backlog in processing applications for asylum. The Attorney General shall take such actions as may be practicable to commence a hearing not later than 45 days after the application is received.

(c) Hearing.—In the case of any applicant described in subsection (a) who is being held at a regional processing center, not later than 180 days after that applicant’s arrival and processing, there shall be a hearing on the asylum application of such applicant before an immigration judge. Such hearings may be conducted via teleconference.

(d) Program to Provide Necessities.—The Director of the Office of Refugee Resettlement shall establish
a program to, using refugee resettlement community and
faith-based organizations and nonprofits, provide neces-
sities for any applicant described in subsection (a) await-
ing a hearing before an immigration judge, including hous-
ing, basic necessities, access to medical care, access to
mental treatment resources, and legal orientation pro-
grams.

(c) TRACKING.—The Family Case Management Pro-
gram may be used in certain situations in which a hearing
may be anticipated to take longer than 150 days to con-
clude, or in cases where remaining in a Regional Proc-
essing Center would cause unreasonable hardship on an
individual, such as cases involving a disability, injury, a
pregnant woman or girl, nursing mother, an elderly per-
son, a survivor of torture and trauma, a survivor of gen-
der-based violence or other violent crimes, a victims of
trafficking, or other special circumstances as determined
by the Attorney General. Any applicant given priority
under this section who is an adult, parent, or legal guard-
ian, shall wear an electronic monitoring device and shall
check in on a weekly basis using automated telephone
technology that confirms a caller’s identity and location.
An electronic monitoring device shall be used in the case
of—
(1) any alien affirmatively claiming asylum as a defense against removal;

(2) any alien the Secretary of Homeland Security determines to be a flight risk;

(3) any alien who violates requirements under the Family Case Management Program; or

(4) any alien who satisfies such additional criteria as the Secretary may establish.

(f) CONTRACTING FOR GOODS AND SERVICES.—The Attorney General is authorized to enter into contracts with or award grants to nonprofit agencies providing direct services and goods to asylum seekers.

(g) COUNSEL.—The Attorney General shall take steps to provide for the appointment of counsel for vulnerable populations and in particularly complex cases. For purposes of this section, the term “vulnerable” means, in the case of an alien, that circumstances exist in the case of that alien that may require that the Secretary of Homeland Security engage in additional intervention, assistance, and care, including that the alien is—

(1) an unaccompanied or separated child;

(2) a child accompanied by a parent, other family member, or guardian;

(3) a pregnant woman or girl, or a nursing mother;
(4) the sole or primary caregiver of a dependent child, elderly person, or person with disability;

(5) a woman at risk of sexual or gender-based violence, exploitation, or abuse;

(6) a person at risk of violence due to their sexual orientation or gender identity;

(7) a person at risk of suicide;

(8) a person with a disability;

(9) an elderly person;

(10) a person with substance addiction;

(11) a person who is destitute;

(12) a survivor of torture and trauma;

(13) a survivor of sexual or gender-based violence or other violent crimes;

(14) a victim of trafficking; or

(15) a stateless person.

SEC. 9104. RECORDING EXPEDITED REMOVAL AND CREDIBLE FEAR INTERVIEWS.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish quality assurance procedures and take steps to effectively ensure that questions by employees of the Department of Homeland Security exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) are asked in a uniform manner, to the extent possible, and that both
these questions and the answers provided in response to them are recorded in a uniform fashion.

(b) FACTORS RELATING TO SWORN STATEMENTS.—
Where practicable, any sworn or signed written statement taken of an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) shall be accompanied by a recording of the interview which served as the basis for that sworn statement.

(c) INTERPRETERS.—The Secretary shall ensure that a fluent interpreter, not affiliated with the government of the country from which the alien may claim asylum, is used when the interviewing officer does not speak a language that the alien is fluent in speaking.

(d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
There shall be an audio or audio visual recording of interviews of aliens subject to expedited removal. The recording shall be included in the record of proceeding and shall be considered as evidence in any further proceedings involving the alien.

SEC. 9105. RENUNCIATION OF ASYLUM STATUS PURSUANT TO RETURN TO HOME COUNTRY.

(a) IN GENERAL.—Section 208(c) of the Immigration and Nationality Act (8 U.S.C. 1158(c)) is amended by adding at the end the following new paragraph:
“(4) Renunciation of status pursuant to return to home country.—

“(A) In general.—Except as provided in subparagraph (B), any alien who is granted asylum status under this Act, who, absent changed country conditions, subsequently returns to the country of such alien’s nationality or, in the case of an alien having no nationality, returns to any country in which such alien last habitually resided, and who applied for such status because of persecution or a well-founded fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, shall have his or her status terminated.

“(B) Waiver.—The Secretary has discretion to waive subparagraph (A) if it is established to the satisfaction of the Secretary that the alien had a compelling reason for the return. The waiver may be sought prior to departure from the United States or upon return.”.

(b) Conforming Amendment.—Section 208(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(c)(3)) is amended by inserting after “paragraph (2)” the following: “or (4)”. 
SEC. 9106. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLICATIONS.

(a) IN GENERAL.—Section 208(d)(4) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(4)) is amended—

(1) in the matter preceding subparagraph (A), by inserting “the Secretary of Homeland Security or” before “the Attorney General”;

(2) in subparagraph (A), by striking “and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and” and inserting a semicolon;

(3) in subparagraph (B), by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(C) ensure that a written warning appears on the asylum application advising the alien of the consequences of filing a frivolous application and serving as notice to the alien of the consequence of filing a frivolous application.”.

(b) CONFORMING AMENDMENT.—Section 208(d)(6) of the Immigration and Nationality Act (8 U.S.C. 1158(d)(6)) is amended by striking “If the” and all that follows and inserting:
“(A) If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(C), the alien shall be permanently ineligible for any benefits under this chapter, effective as the date of the final determination of such an application;

“(B) An application is frivolous if the Secretary of Homeland Security or the Attorney General determines, consistent with subparagraph (C), that—

“(i) it is so insufficient in substance that it is clear that the applicant knowingly filed the application solely or in part to delay removal from the United States, to seek employment authorization as an applicant for asylum pursuant to regulations issued pursuant to paragraph (2); or

“(ii) any of the material elements are knowingly fabricated.

“(C) In determining that an application is frivolous, the Secretary or the Attorney General, must be satisfied that the applicant, during the course of the proceedings, has had suffi-
cient opportunity to clarify any discrepancies or implausible aspects of the claim.

“(D) For purposes of this section, a finding that an alien filed a frivolous asylum application shall not preclude the alien from seeking withholding of removal under section 241(b)(3). or protection pursuant to the Convention Against Torture.”.

SEC. 9107. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.

(a) Asylum Credibility Determinations.—Section 208(b)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

(b) Relief for Removal Credibility Determinations.—Section 240(c)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended by inserting after “all relevant factors” the following: “, including statements made to, and investigative reports prepared by, immigration authorities and other government officials”.

SEC. 9108. PENALTIES FOR ASYLUM FRAUD.

Section 1001 of title 18, United States, Code, is amended by inserting at the end of the paragraph—
'(d) Whoever, in any matter before the Secretary of Homeland Security or the Attorney General pertaining to asylum under section 208 of the Immigration and Nationality Act or withholding of removal under section 241(b)(3) of such Act, knowingly and willfully—

‘‘(1) makes any materially false, fictitious, or fraudulent statement or representation; or

‘‘(2) makes or uses any false writings or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 10 years, or both.’’.

SEC. 9109. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.

Section 3291 of title 18, United States Code, is amended—

(1) by striking ‘‘1544,’’ and inserting ‘‘1544, and section 1546,’’;

(2) by striking ‘‘offense.’’ and inserting ‘‘of-

fense or within 10 years after the fraud is discov-

ered.’’.

SEC. 9110. STANDARD OPERATING PROCEDURES; FACILI-

TIES STANDARDS.

(a) STANDARD OPERATING PROCEDURES.—Section

411(k)(1) of the Homeland Security Act of 2002 (6

U.S.C. 211(k)) is amended—
(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E)(iv), by striking the period at the end and inserting “; and”; and

(3) adding at the end the following:

“(F) standard operating procedures regarding the detection, interdiction, inspection, processing, or transferring of alien children that officers and agents of U.S. Customs and Border Protection shall employ in the execution of their duties.”.

(b) FACILITIES STANDARDS.—

(1) INITIAL REVIEW AND UPDATE.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall review and update the regulations under part 115 of title 6, Code of Federal Regulations, that set standards to prevent, detect, and respond to sexual abuse and assault in immigration detention facilities and other holding facilities under the jurisdiction of the Department of Homeland Security.

(2) QUADRENNIAL REVIEW.—The Secretary shall review and update the regulations referred to in paragraph (1) not less frequently than once every 4 years.
SEC. 9111. CRIMINAL BACKGROUND CHECKS FOR SPONSORS OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Section 235(c) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), in the first sentence, by striking “subparagraph (B)” and inserting “subparagraphs (B) and (C)”;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

“(B) CRIMINAL BACKGROUND CHECKS.—

“(i) IN GENERAL.—Before placing an unaccompanied alien child with an individual, the Secretary of Health and Human Services shall—

“(I) conduct a criminal history background check on the individual and each adult member of the individual’s household; and

“(II) if appropriate, collect biometric samples in connection with any such background check.
“(ii) Scope.—

“(I) In general.—Each biometric criminal history background check required under clause (i) shall be conducted through—

“(aa) the Federal Bureau of Investigation;

“(bb) criminal history repositories of each State the individual lists as a current or former residence; and

“(cc) any other Federal or State database or repository the Secretary of Health and Human Services considers appropriate.

“(II) Use of Rapid DNA Instruments.—DNA analysis of a DNA sample collected under subclause (I) may be carried out with Rapid DNA instruments (as defined in section 3(c) of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702(e))).

“(III) Limitation on Use of Biometric Samples.—The Secretary
of Health and Human Services may not release a fingerprint or DNA sample collected, or disclose the results of a fingerprint or DNA analysis conducted under this subparagraph, or any other information obtained pursuant to this section, to the Department of Homeland Security for any immigration enforcement purpose.

“(IV) Access to Information through the Department of Homeland Security.—Not later than 14 days after receiving a request from the Secretary of Health and Human Services, the Secretary of Homeland Security shall provide information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement and immigration databases.

“(iii) Prohibition on Placement with Individuals Convicted of Certain Offenses.—The Secretary of Health and Human Services may not place an unaccompanied alien child in the custody or
household of an individual who has been convicted of, or is currently being tried for—

“(I) a sex offense (as defined in section 111 of the Sex Offender Registration and Notification Act (34 U.S.C. 20911));

“(II) a crime involving severe forms of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102));

“(III) a crime of domestic violence (as defined in section 40002(a) of the Violence Against Women Act (34 U.S.C. 12291(a));

“(IV) a crime of child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act (Public Law 93–247; 42 U.S.C. 5101 note));

“(V) murder, manslaughter, or an attempt to commit murder or manslaughter (within the meanings of such terms in sections 1111, 1112,
and 1113 of title 18, United States Code); or

“(VI) a crime involving receipt, distribution, or possession of a visual depiction of a minor engaging in sexually explicit conduct (within the meanings of such terms in section 2252 of title 18, United States Code).”; and

(D) by adding at the end the following:

“(E) WELL-BEING FOLLOW-UP CALLS.—

Not later than 30 days after the date on which an unaccompanied alien child is released from the custody of the Secretary of Health and Human Services, and every 60 days thereafter until the date on which a final decision has been issued in the removal proceedings of the child or such proceedings are terminated, the Secretary shall conduct a follow-up telephone call with the unaccompanied alien child and the child’s custodian or the primary point of contact for any other entity with which the child was placed.

“(F) CHANGE OF ADDRESS.—The Secretary of Health and Human Services shall—
“(i) require each custodian with whom an unaccompanied alien child is placed under this subsection to notify the Secretary with respect to any change in the unaccompanied alien child’s physical or mailing address, including any situation in which the unaccompanied alien child permanently departs the custodian’s residence, not later than 7 days after the date on which such change or departure occurs; and

“(ii) develop and implement a system that permits custodians to submit notifications electronically with respect to a change of address.”.

(b) COLLECTION AND COMPILATION OF STATISTICAL INFORMATION.—Section 462(b)(1)(K) of the Homeland Security Act of 2002 (6 U.S.C. 279(b)(1)(K)) is amended by striking “; and” and inserting “, including—

“(i) the average length of time from apprehension to the child’s master calendar hearing, organized by the fiscal year in which the children were apprehended by U.S. Customs and Border Protection;
“(ii) the number of children identified under clause (i) who did and did not appear at master calendar hearings, including the percentage of children in each category who were represented by counsel;

“(iii) the average length of time from apprehension to the child’s merits hearing, organized by the fiscal year in which the children were apprehended by U.S. Customs and Border Protection;

“(iv) the number of children identified under clause (i) who did and did not appear at merits hearings, including the percentage of children in each category who are represented by counsel; and

“(v) the total number of well-being follow-up calls conducted under section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)(E)) at each time interval following placement with a custodian or other entity, and the number of children that the Secretary of Health and Human Services is unable to contact at each interval, organized by the fiscal
year in which the children were apprehended by U.S. Customs and Border Protection; and”.

SEC. 9112. FRAUD IN CONNECTION WITH THE TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1041. Fraud in connection with the transfer of custody of unaccompanied alien children

“(a) IN GENERAL.—It shall be unlawful for a person to obtain custody of an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)))—

“(1) by making any materially false, fictitious, or fraudulent statement or representation; or

“(2) by making or using any false writing or document with the knowledge that such writing or document contains any materially false, fictitious, or fraudulent statement or entry.

“(b) PENALTIES.—

“(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall
be fined under this title and imprisoned for not less
than 1 year.

“(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of a violation, at-
ttempted violation, or conspiracy to violate this sec-
tion was to subject the child to sexually explicit ac-
tivity or any other form of exploitation, the offender
shall be fined under this title and imprisoned for not
less than 15 years.”.

(b) CLERICAL AMENDMENT.—The chapter analysis
for chapter 47 of title 18, United States Code, is amended
by adding at the end the following:

SEC. 9113. HIRING AUTHORITY.

(a) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
MENT.—

(1) IN GENERAL.—The Director of U.S. Immig-
ration and Customs Enforcement shall hire, train,
and assign—

(A) not fewer than 300 Enforcement and
Removal Operations support personnel to ad-
dress case management responsibilities relating
to aliens apprehended along the southwest bor-
der, and the operation of regional processing
centers established under section 437(a) of the
Homeland Security Act of 2002;
(B) not fewer than 128 attorneys in the Office of the Principal Legal Advisor; and

(C) not fewer than 41 support staff within the Office of the Principal Legal Advisor to assist immigration judges within the Executive Office for Immigration Review with removal, asylum, and custody determination proceedings.

(2) GAO REVIEW AND REPORT RELATING TO STAFFING NEEDS.—

(A) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(i) U.S. Immigration and Customs Enforcement activities and staffing needs related to irregular migration influx events along the southwest border during fiscal years 2014, 2019, and 2021, including—

(I) the total number of aliens placed in removal proceedings in connection with such irregular migration influx events;

(II) the number of hours dedicated to responding to irregular migration influx events by Enforcement and Removal Operations officers, Enforcement and Removal Operations
support personnel, attorneys within
the Office of the Principal Legal Advi-
sor, and support staff within the Of-
office of the Principal Legal Advisor;
and

(III) the impact that response to
such irregular migration influx events
had on the ability of U.S. Immigra-
tion and Customs Enforcement to
carry out other aspects of its mission,
including the regular transport of mi-
grants from U.S. Customs and Border
Protection facilities to U.S. Immigra-
tion and Customs Enforcement facili-
ties; and

(ii) staffing levels within the Office of
the Principal Legal Advisor, U.S. Immi-
gration and Customs Enforcement, includ-
ing the impact such staffing levels have on
docketing of cases within the Executive Of-
lice for Immigration Review.

(B) REPORT.—Not later than 1 year after
the date of the enactment of this Act, the
Comptroller General shall submit to the appro-
priate committees of Congress a report that de-
scribes the results of the review conducted under subparagraph (A).

(b) EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.—The Director of the Executive Office for Immigration Review shall hire, train, and assign not fewer than 150 new Immigration Judge teams, including staff attorneys and all applicable support staff for such Immigration Judge teams.

e) U.S. CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of U.S. Citizenship and Immigration Services shall hire, train, and assign not fewer than 300 asylum officers.

“1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”

TITLE Z—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. 10101. UNITED STATES STRATEGY FOR ENGAGEMENT IN CENTRAL AMERICA.

(a) IN GENERAL.—The Secretary of State shall implement a 4-year strategy, to be known as the “United
States Strategy for Engagement in Central America’’ (referred to in this subtitle as the “Strategy”)—

(1) to advance reforms in Central America; and

(2) to address the key factors contributing to the flight of families, unaccompanied noncitizen children, and other individuals from Central America to the United States.

(b) ELEMENTS.—The Strategy shall include efforts—

(1) to strengthen democratic governance, accountability, transparency, and the rule of law;

(2) to combat corruption and impunity;

(3) to improve access to justice;

(4) to bolster the effectiveness and independence of judicial systems and public prosecutors’ offices;

(5) to improve the effectiveness of civilian police forces;

(6) to confront and counter the violence, extortion, and other crimes perpetrated by armed criminal gangs, illicit trafficking organizations, and organized crime, while disrupting recruitment efforts by such organizations;

(7) to disrupt money laundering and other illicit financial operations of criminal networks, armed
gangs, illicit trafficking organizations, and human
smuggling networks;

(8) to promote greater respect for internationally
recognized human rights, labor rights, fundamental freedoms, and the media;

(9) to enhance accountability for government
officials, including police and security force per-
sonnel, who are credibly alleged to have committed
serious violations of human rights or other crimes;

(10) to enhance the capability of governments
in Central America to protect and provide for vul-
nerable and at-risk populations;

(11) to address the underlying causes of pov-
erty and inequality and the constraints to inclusive
economic growth in Central America; and

(12) to prevent and respond to endemic levels
of sexual, gender-based, and domestic violence.

(c) COORDINATION AND CONSULTATION.—In imple-
menting the Strategy, the Secretary of State shall—

(1) coordinate with the Secretary of the Treas-
ury, the Secretary of Defense, the Secretary, the At-
torney General, the Administrator of the United
States Agency for International Development, and
the Chief Executive Officer of the United States De-
velopment Finance Corporation; and
(2) consult with the Director of National Intelligence, national and local civil society organizations in Central America and the United States, and the governments of Central America.

(d) SUPPORT FOR CENTRAL AMERICAN EFFORTS.—To the degree feasible, the Strategy shall support or complement efforts being carried out by the Governments of El Salvador, of Guatemala, and of Honduras, in coordination with bilateral and multilateral donors and partners, including the Inter-American Development Bank.

SEC. 10102. SECURING SUPPORT OF INTERNATIONAL DONORS AND PARTNERS.

(a) PLAN.—The Secretary of State shall implement a 4-year plan—

(1) to secure support from international donors and regional partners to enhance the implementation of the Strategy;

(2) to identify governments that are willing to provide financial and technical assistance for the implementation of the Strategy and the specific assistance that will be provided; and

(3) to identify and describe the financial and technical assistance to be provided by multilateral institutions, including the Inter-American Development Bank, the World Bank, the International Mon-
etary Fund, the Andean Development Corporation—
Development Bank of Latin America, and the Orga-
nization of American States.

(b) DIPLOMATIC ENGAGEMENT AND COORDINA-
tion.—The Secretary of State, in coordination with the
Secretary of the Treasury, as appropriate, shall—

(1) carry out diplomatic engagement to secure
contributions of financial and technical assistance
from international donors and partners in support of
the Strategy; and

(2) take all necessary steps to ensure effective
cooperation among international donors and part-
ners supporting the Strategy.

SEC. 10103. COMBATING CORRUPTION, STRENGTHENING
THE RULE OF LAW, AND CONSOLIDATING
DEMOCRATIC GOVERNANCE.

The Secretary of State and the Administrator of the
United States Agency for International Development are
authorized—

(1) to combat corruption in Central America by
supporting—

(A) Inspectors General and oversight insti-
tutions, including—

(i) support for multilateral support
missions for key ministries, including min-
istries responsible for tax, customs, procurement, and citizen security; and

(ii) relevant training for inspectors and auditors;

(B) multilateral support missions against corruption and impunity;

(C) civil society organizations conducting oversight of executive and legislative branch officials and functions, police and security forces, and judicial officials and public prosecutors; and

(D) the enhancement of freedom of information mechanisms;

(2) to strengthen the rule of law in Central America by supporting—

(A) Attorney General offices, public prosecutors, and the judiciary, including enhancing investigative and forensics capabilities;

(B) an independent, merit-based selection processes for judges and prosecutors, independent internal controls, and relevant ethics and professional training, including training on sexual, gender-based, and domestic violence;

(C) improved victim, witness, and whistleblower protection and access to justice; and
(D) reforms to and the improvement of prison facilities and management;
(3) to consolidate democratic governance in Central America by supporting—
   (A) reforms of civil services, related training programs, and relevant laws and processes that lead to independent, merit-based selection processes;
   (B) national legislatures and their capacity to conduct oversight of executive branch functions;
   (C) reforms to, and strengthening of, political party and campaign finance laws and electoral tribunals;
   (D) local governments and their capacity to provide critical safety, education, health, and sanitation services to citizens; and
(4) to defend human rights by supporting—
   (A) human rights ombudsman offices;
   (B) government protection programs that provide physical protection and security to human rights defenders, journalists, trade unionists, whistleblowers, and civil society activists who are at risk;
(C) civil society organizations that promote and defend human rights; and

(D) civil society organizations that address sexual, gender-based, and domestic violence, and that protect victims of such violence.

SEC. 10104. COMBATING CRIMINAL VIOLENCE AND IMPROVING CITIZEN SECURITY.

The Secretary of State and the Administrator of the United States Agency for International Development are authorized—

(1) to counter the violence and crime perpetrated by armed criminal gangs, illicit trafficking organizations, and human smuggling networks in Central America by providing assistance to civilian law enforcement, including support for—

(A) the execution and management of complex, multi-actor criminal cases;

(B) the enhancement of intelligence collection capacity, and training on civilian intelligence collection (including safeguards for privacy and basic civil liberties), investigative techniques, forensic analysis, and evidence preservation;

(C) community policing policies and programs;
(D) the enhancement of capacity to identify, investigate, and prosecute crimes involving sexual, gender-based, and domestic violence; and

(E) port, airport, and border security officials, agencies and systems, including—

(i) the professionalization of immigration personnel;

(ii) improvements to computer infrastructure and data management systems, secure communications technologies, non-intrusive inspection equipment, and radar and aerial surveillance equipment; and

(iii) assistance to canine units;

(2) to disrupt illicit financial networks in Central America, including by supporting—

(A) finance ministries, including the imposition of financial sanctions to block the assets of individuals and organizations involved in money laundering or the financing of armed criminal gangs, illicit trafficking networks, human smuggling networks, or organized crime;

(B) financial intelligence units, including the establishment and enhancement of anti-money laundering programs; and
(C) the reform of bank secrecy laws;

(3) to assist in the professionalization of civilian police forces in Central America by supporting—

(A) reforms with respect to personnel recruitment, vetting, and dismissal processes, including the enhancement of polygraph capability for use in such processes;

(B) Inspectors General and oversight offices, including relevant training for inspectors and auditors, and independent oversight mechanisms, as appropriate; and

(C) training and the development of protocols regarding the appropriate use of force and human rights;

(4) to improve crime prevention and to reduce violence, extortion, child recruitment into gangs, and sexual slavery by supporting—

(A) the improvement of child protection systems;

(B) the enhancement of programs for at-risk youth, including the improvement of community centers and programs aimed at successfully reinserting former gang members;

(C) livelihood programming that provides youth and other at-risk individuals with legal
and sustainable alternatives to gang membership;

(D) safe shelter and humanitarian responses for victims of crime and internal displacement; and

(E) programs to receive and effectively reintegrate repatriated migrants in El Salvador, Guatemala, and Honduras.

SEC. 10105. COMBATING SEXUAL, GENDER-BASED, AND DOMESTIC VIOLENCE.

The Secretary of State and the Administrator of the United States Agency for International Development are authorized to counter sexual, gender-based, and domestic violence in Central American countries by—

(1) broadening engagement among national and local institutions to address sexual, gender-based, and domestic violence;

(2) supporting educational initiatives to reduce sexual, gender-based, and domestic violence;

(3) supporting outreach efforts tailored to meet the needs of women, girls, and other vulnerable individuals at risk of violence and exploitation;

(4) formalizing standards of care and confidentiality at police, health facilities, and other government facilities; and
(5) establishing accountability mechanisms for
perpetrators of violence.

Subtitle B—Information Campaign
on the Dangers of Irregular Migration

SEC. 10201. INFORMATION CAMPAIGN ON DANGERS OF IRREGULAR MIGRATION.

(a) In General.—The Secretary of State, in coordi-
nation with the Secretary, shall design and implement
public information campaigns in El Salvador, Guatemala,
Honduras, and other appropriate Central American coun-
tries—

(1) to disseminate information about the poten-
tial dangers of travel to the United States;

(2) to provide accurate information about
United States immigration law and policy; and

(3) to provide accurate information about the
availability of asylum, other humanitarian protec-
tions in countries in the Western Hemisphere, and
other legal means for migration.

(b) Elements.—The information campaigns imple-
mented pursuant to subsection (a), to the greatest extent
possible—
(1) shall be targeted at regions with high levels of outbound migration or significant populations of internally displaced persons;

(2) shall include examples of valid and invalid asylum claims;

(3) shall be conducted in local languages;

(4) shall employ a variety of communications media, including social media; and

(5) shall be developed in coordination with program officials at the Department of Homeland Security, the Department of State, and other government, nonprofit, or academic entities in close contact with migrant populations from El Salvador, Guatemala, and Honduras, including repatriated migrants.

Subtitle C—Cracking Down on Criminal Organizations

SEC. 10301. ENHANCED INVESTIGATION AND PROSECUTION OF HUMAN SMUGGLING NETWORKS AND TRAFFICKING ORGANIZATIONS.

The Attorney General and the Secretary shall expand collaboration on the investigation and prosecution of human smuggling networks and trafficking organizations targeting migrants, asylum seekers, and unaccompanied children and operating at the southwestern border of the
United States, including the continuation and expansion
of anti-trafficking coordination teams.

SEC. 10302. ENHANCED PENALTIES FOR ORGANIZED SMUGGLING SCHEMES.

(a) IN GENERAL.—Section 274(a)(1)(B) of the Im-
migration and Nationality Act (8 U.S.C. 1324(a)(1)(B))
is amended—

(1) by redesignating clauses (iii) and (iv) as
clauses (iv) and (v), respectively;

(2) by inserting after clause (ii) the following:

“(iii) in the case of a violation of subparagraph
(A)(i) during and in relation to which the person,
while acting for profit or other financial gain, know-
ingly directs or participates in a scheme to cause
any person (other than a parent, spouse, sibling, son
or daughter, grandparent, or grandchild of the of-
fender) to enter or to attempt to enter the United
States at the same time at a place other than a des-
ignated port of entry or place other than designated
by the Secretary, be fined under title 18, United
States Code, imprisoned not more than 20 years, or
both;”; and

(3) in clause (iv), as redesignated, by inserting
“commits or attempts to commit sexual assault of,”
after “section 1365 of title 18, United States Code) to,”.

(b) BULK CASH SMUGGLING.—Section 5332(b)(1) of title 31, United States Code, is amended—

(1) in the paragraph heading, by striking “TERM OF IMPRISONMENT.—” and inserting “IN GENERAL.—”; and

(2) by striking “5 years” and inserting “10 years, fined under title 18, or both”.

SEC. 10303. EXPANDING FINANCIAL SANCTIONS ON NARCOTICS TRAFFICKING AND MONEY LAUNDERING.

(a) FINANCIAL SANCTIONS EXPANSION.—The Secretary of the Treasury, the Attorney General, the Secretary of State, the Secretary of Defense, and the Director of Central Intelligence shall expand investigations, intelligence collection, and analysis pursuant to the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.) to increase the identification and application of sanctions against—

(1) significant foreign narcotics traffickers and their organizations and networks; and

(2) foreign persons, including government officials, who provide material, financial, or techno-
logical support to such traffickers, organizations, or networks.

(b) Specific Targets.—The activities described in subsection (a) shall specifically target foreign narcotics traffickers, their organizations and networks, and the foreign persons, including government officials, who provide material, financial, or technological support to such traffickers, organizations, and networks that are present and operating in Central America.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

SEC. 10304. SUPPORT FOR TRANSNATIONAL ANTI-GANG TASK FORCES FOR COUNTERING CRIMINAL GANGS.

The Director of the Federal Bureau of Investigation, the Director of the Drug Enforcement Administration, the Director of Homeland Security Investigations, and the Secretary, in coordination with the Secretary of State, shall expand the use of transnational task forces that seek to address transnational crime perpetrated by gangs in El Salvador, Guatemala, Honduras, and any other identified country by—
(1) expanding transnational criminal investigations focused on criminal gangs in identified countries, such as MS–13 and 18th Street;

(2) expanding training and partnership efforts with law enforcement entities in identified countries to disrupt and dismantle criminal gangs, both internationally and in their respective countries;

(3) establishing or expanding gang-related investigative units;

(4) collecting and disseminating intelligence to support related United States-based investigations; and

(5) expanding programming related to gang intervention and prevention for at-risk youth.

DIVISION B—AMERICAN DREAM AND PROMISE

SEC. 1. SHORT TITLE.

This division may be cited as the “American Dream and Promise Act”.

TITLE I—DREAM ACT

SEC. 1101. SHORT TITLE.

This title may be cited as the “Dream Act”.
SEC. 1102. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) Conditional Basis for Status.—Notwithstanding any other provision of law, and except as provided in section 1104(c)(2), an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to have obtained such status on a conditional basis subject to the provisions of this title.

(b) Requirements.—

(1) In general.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, or without the conditional basis as provided in section 1104(c)(2), an alien who is inadmissible or deportable from the United States, is subject to a grant of Deferred Enforced Departure, has temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), or is the son or daughter of an alien admitted as a non-immigrant under subparagraphs (E)(i), (E)(ii), (H)(i)(b), or (L) of section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) if—
(A) the alien has been continuously physically present in the United States since July 4, 2017;

(B) the alien was younger than 18 years of age on the date on which the alien entered the United States and has continuously resided in the United States since such entry;

(C) the alien—

(i) subject to paragraph (2), is not inadmissible under paragraph (1), (6)(E), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) is not barred from adjustment of status under this title based on the criminal and national security grounds described under subsection (c), subject to the provisions of such subsection; and

(D) the alien—
(i) has been admitted to an institution of higher education;

(ii) has been admitted to an area career and technical education school at the postsecondary level;

(iii) in the United States, has obtained—

(I) a high school diploma or a commensurate alternative award from a public or private high school;

(II) a General Education Development credential, a high school equivalency diploma recognized under State law, or another similar State-authorized credential;

(III) a credential or certificate from an area career and technical education school at the secondary level; or

(IV) a recognized postsecondary credential; or

(iv) is enrolled in secondary school or in an education program assisting students in—
(I) obtaining a high school diploma or its recognized equivalent under State law;

(II) passing the General Education Development test, a high school equivalence diploma examination, or other similar State-authorized exam;

(III) obtaining a certificate or credential from an area career and technical education school providing education at the secondary level; or

(IV) obtaining a recognized post-secondary credential.

(2) WAIVER OF GROUNDS OF INADMISSIBILITY.—With respect to any benefit under this title, and in addition to the waivers under subsection (c)(2), the Secretary may waive the grounds of inadmissibility under paragraph (1), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(3) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may, subject to an exemption under section 3103(e),
require an alien applying under this section to pay a reasonable fee that is commensurate with the cost of processing the application but does not exceed $495.00.

(B) SPECIAL PROCEDURES FOR APPLICANTS WITH DACA.—The Secretary shall establish a streamlined procedure for aliens who have been granted DACA and who meet the requirements for renewal (under the terms of the program in effect on January 1, 2017) to apply for adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis under this section, or without the conditional basis as provided in section 1104(c)(2). Such procedure shall not include a requirement that the applicant pay a fee, except that the Secretary may require an applicant who meets the requirements for lawful permanent residence without the conditional basis under section 1104(c)(2) to pay a fee that is commensurate with the cost of processing the application, subject to the exemption under section 3103(c).

(4) BACKGROUND CHECKS.—The Secretary may not grant an alien permanent resident status on
a conditional basis under this section until the re-
quirements of section 3102 are satisfied.

(5) MILITARY SELECTIVE SERVICE.—An alien
applying for permanent resident status on a condi-
tional basis under this section, or without the condi-
tional basis as provided in section 1104(c)(2), shall
establish that the alien has registered under the
Military Selective Service Act (50 U.S.C. 3801 et
seq.), if the alien is subject to registration under
such Act.

(c) CRIMINAL AND NATIONAL SECURITY BARS.—

(1) GROUNDS OF INELIGIBILITY.—Except as
provided in paragraph (2), an alien is ineligible for
adjustment of status under this title (whether on a
conditional basis or without the conditional basis as
provided in section 1104(c)(2)) if any of the fol-
lowing apply:

(A) The alien is inadmissible under para-
graph (2) or (3) of section 212(a) of the Immi-
gration and Nationality Act (8 U.S.C. 1182(a)).

(B) Excluding any offense under State law
for which an essential element is the alien’s im-
migration status, and any minor traffic offense,
the alien has been convicted of—

(i) any felony offense;
(ii) two or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, and any offense involving civil disobedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(iii) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(I) a victim of domestic violence, sexual assault, stalking, child abuse or neglect, abuse or neglect in later life, or human trafficking;

(II) battered or subjected to extreme cruelty; or

(2) WAIvers for certain misdeMEnors.—
For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may—

(A) waive the grounds of inadmissibility under subparagraphs (A), (C), and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless the conviction forming the basis for inadmissibility would otherwise render the alien ineligible under paragraph (1)(B) (subject to subparagraph (B)); and

(B) for purposes of clauses (ii) and (iii) of paragraph (1)(B), waive consideration of—

(i) one misdemeanor offense if the alien has not been convicted of any offense in the 5-year period preceding the date on which the alien applies for adjustment of status under this title; or

(ii) up to two misdemeanor offenses if the alien has not been convicted of any offense in the 10-year period preceding the date on which the alien applies for adjustment of status under this title.

(3) AuThoRItY to CoNduCT seCondary reView.—
(A) IN GENERAL.—Notwithstanding an alien’s eligibility for adjustment of status under this title, and subject to the procedures described in this paragraph, the Secretary may, as a matter of non-delegable discretion, provisionally deny an application for adjustment of status (whether on a conditional basis or without the conditional basis as provided in section 1104(c)(2)) if the Secretary, based on clear and convincing evidence, which shall include credible law enforcement information, determines that the alien is described in subparagraph (B) or (D).

(B) PUBLIC SAFETY.—An alien is described in this subparagraph if—

(i) excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, any offense under State law for which an essential element is the alien’s immigration status, any offense involving civil disobedience without vio-
ence, and any minor traffic offense, the alien—

(I) has been convicted of a misdemeanor offense punishable by a term of imprisonment of more than 30 days; or

(II) has been adjudicated delinquent in a State or local juvenile court proceeding that resulted in a disposition ordering placement in a secure facility; and

(ii) the alien poses a significant and continuing threat to public safety related to such conviction or adjudication.

(C) PUBLIC SAFETY DETERMINATION.—

For purposes of subparagraph (B)(ii), the Secretary shall consider the recency of the conviction or adjudication; the length of any imposed sentence or placement; the nature and seriousness of the conviction or adjudication, including whether the elements of the offense include the unlawful possession or use of a deadly weapon to commit an offense or other conduct intended to cause serious bodily injury; and any miti-
gating factors pertaining to the alien’s role in
the commission of the offense.

(D) G ANG PARTICIPATION.—An alien is
described in this subparagraph if the alien has,
within the 5 years immediately preceding the
date of the application, knowingly, willfully, and
voluntarily participated in offenses committed
by a criminal street gang (as described in sub-
sections (a) and (c) of section 521 of title 18,
United States Code) with the intent to promote
or further the commission of such offenses.

(E) EVIDENTIARY LIMITATION.—For pur-
poses of subparagraph (D), allegations of gang
membership obtained from a State or Federal
in-house or local database, or a network of
databases used for the purpose of recording and
sharing activities of alleged gang members
across law enforcement agencies, shall not es-
ablish the participation described in such para-
graph.

(F) NOTICE.—

(i) I N GENERAL.—Prior to rendering
a discretionary decision under this para-
graph, the Secretary shall provide written
notice of the intent to provisionally deny
the application to the alien (or the alien’s
counsel of record, if any) by certified mail
and, if an electronic mail address is pro-
vided, by electronic mail (or other form of
electronic communication). Such notice
shall—

(I) articulate with specificity all
grounds for the preliminary deter-
mination, including the evidence relied
upon to support the determination;
and

(II) provide the alien with not
less than 90 days to respond.

(ii) SECOND NOTICE.—Not more than
30 days after the issuance of the notice
under clause (i), the Secretary shall pro-
vide a second written notice that meets the
requirements of such clause.

(iii) NOTICE NOT RECEIVED.—Not-
withstanding any other provision of law, if
an applicant provides good cause for not
contesting a provisional denial under this
paragraph, including a failure to receive
notice as required under this subpara-
graph, the Secretary shall, upon a motion
filed by the alien, reopen an application for adjustment of status under this title and allow the applicant an opportunity to respond, consistent with clause (i)(II).

(G) JUDICIAL REVIEW OF A PROVISIONAL DENIAL.—

(i) In general.—Notwithstanding any other provision of law, if, after notice and the opportunity to respond under subparagraph (F), the Secretary provisionally denies an application for adjustment of status under this Act, the alien shall have 60 days from the date of the Secretary’s determination to seek review of such determination in an appropriate United States district court.

(ii) Scope of review and decision.—Notwithstanding any other provision of law, review under paragraph (1) shall be de novo and based solely on the administrative record, except that the applicant shall be given the opportunity to supplement the administrative record and the Secretary shall be given the opportunity to rebut the evidence and arguments
raised in such submission. Upon issuing its
decision, the court shall remand the mat-
ter, with appropriate instructions, to the
Department of Homeland Security to
render a final decision on the application.

(iii) APPOINTED COUNSEL.—Notwith-
standing any other provision of law, an ap-
plicant seeking judicial review under clause
(i) shall be represented by counsel. Upon
the request of the applicant, counsel shall
be appointed for the applicant, in accord-
ance with procedures to be established by
the Attorney General within 90 days of the
date of the enactment of this Act, and
shall be funded in accordance with fees col-
lected and deposited in the Immigration
Counsel Account under section 3112.

(4) DEFINITIONS.—For purposes of this sub-
section—

(A) the term “felony offense” means an of-
fense under Federal or State law that is pun-
ishable by a maximum term of imprisonment of
more than 1 year;

(B) the term “misdemeanor offense”
means an offense under Federal or State law
that is punishable by a term of imprisonment of
more than 5 days but not more than 1 year;
and

(C) the term “crime of domestic violence”
means any offense that has as an element the
use, attempted use, or threatened use of phys-
ical force against a person committed by a cur-
rent or former spouse of the person, by an indi-
vidual with whom the person shares a child in
common, by an individual who is cohabiting
with or has cohabited with the person as a
spouse, by an individual similarly situated to a
spouse of the person under the domestic or
family violence laws of the jurisdiction where
the offense occurs, or by any other individual
against a person who is protected from that in-
dividual’s acts under the domestic or family vio-
ience laws of the United States or any State,
Indian Tribal government, or unit of local gov-
ernment.

(d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
MINORS.—An alien who is 18 years of age or younger and
meets the requirements under subparagraphs (A), (B),
and (C) of subsection (b)(1) shall be provided a reasonable
opportunity to meet the educational requirements under
subparagraph (D) of such subsection. The Attorney General or the Secretary may not commence or continue with removal proceedings against such an alien.

(e) Withdrawal of Application.—The Secretary shall, upon receipt of a request to withdraw an application for adjustment of status under this section, cease processing of the application, and close the case. Withdrawal of the application under this subsection shall not prejudice any future application filed by the applicant for any immigration benefit under this title or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 1103. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.

(a) Period of Status.—Permanent resident status on a conditional basis is—

(1) valid for a period of 10 years, unless such period is extended by the Secretary; and

(2) subject to revocation under subsection (e).

(b) Notice of Requirements.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this title and the requirements to have the conditional basis of such status removed.
(c) **Revocation of Status.**—The Secretary may revoke the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under section 1102(b)(1)(C); and

(2) prior to the revocation, provides the alien—

(A) notice of the proposed revocation; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise to contest the proposed revocation.

(d) **Return to Previous Immigration Status.**—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is revoked under subsection (c), shall return to the immigration status that the alien had immediately before receiving permanent resident status on a conditional basis.

**SEC. 1104. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.**

(a) **Eligibility for Removal of Conditional Basis.**—

(1) **In General.**—Subject to paragraph (2), the Secretary shall remove the conditional basis of an alien’s permanent resident status granted under
this title and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in section 1102(b)(1)(C);

(B) has not abandoned the alien’s residence in the United States during the period in which the alien has permanent resident status on a conditional basis; and

(C)(i) has obtained a degree from an institution of higher education or a recognized post-secondary credential from an area career and technical education school providing education at the postsecondary level;

(ii) has served in the Uniformed Services for at least 3 years and, if discharged, received an honorable discharge; or

(iii) demonstrates earned income for periods totaling at least 4 years and at least 75 percent of the time that the alien has had a valid employment authorization.

(2) **HARDSHIP EXCEPTION.**—The Secretary shall remove the conditional basis of an alien’s permanent resident status and grant the alien status as an alien lawfully admitted for permanent residence if the alien—
(A) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(B) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(C) demonstrates that—

(i) the alien has a disability;

(ii) the alien is a full-time caregiver;

or

(iii) the removal of the alien from the United States would result in hardship to the alien or the alien’s spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) CITIZENSHIP REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of an alien’s permanent resident status granted under this title may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 3112(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the
requirements under such section 3112(a) due to
disability.

(4) APPLICATION FEE.—The Secretary may,
subject to an exemption under section 3103(c), re-
quire aliens applying for removal of the conditional
basis of an alien’s permanent resident status under
this section to pay a reasonable fee that is commen-
surate with the cost of processing the application.

(5) BACKGROUND CHECKS.—The Secretary
may not remove the conditional basis of an alien’s
permanent resident status until the requirements of
section 3102 are satisfied.

(b) TREATMENT FOR PURPOSES OF NATURALIZA-
TION.—

(1) IN GENERAL.—For purposes of title III of
the Immigration and Nationality Act (8 U.S.C. 1401
et seq.), an alien granted permanent resident status
on a conditional basis shall be considered to have
been admitted to the United States, and be present
in the United States, as an alien lawfully admitted
for permanent residence.

(2) LIMITATION ON APPLICATION FOR NATU-
RALIZATION.—An alien may not apply for natu-
ralization while the alien is in permanent resident
status on a conditional basis.
(c) Timing of Approval of Lawful Permanent Resident Status.—

(1) In general.—An alien granted permanent resident status on a conditional basis under this title may apply to have such conditional basis removed at any time after such alien has met the eligibility requirements set forth in subsection (a).

(2) Approval with regard to initial applications.—

(A) In general.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an alien lawfully admitted for permanent resident status without conditional basis, any alien who—

(i) demonstrates eligibility for lawful permanent residence status on a conditional basis under section 1102(b); and

(ii) subject to the exceptions described in subsections (a)(2) and (a)(3)(B) of this section, already has fulfilled the requirements of paragraphs (1) and (3) of subsection (a) of this section at the time such alien first submits an application for benefits under this title.
(B) BACKGROUND CHECKS.—Subsection (a)(5) shall apply to an alien seeking lawful permanent resident status without conditional basis in an initial application in the same manner as it applies to an alien seeking removal of the conditional basis of an alien’s permanent resident status. Section 1102(b)(4) shall not be construed to require the Secretary to conduct more than one identical security or law enforcement background check on such an alien.

(C) APPLICATION FEES.—In the case of an alien seeking lawful permanent resident status without conditional basis in an initial application, the alien shall pay the fee required under subsection (a)(4), subject to the exemption allowed under section 3103(c), but shall not be required to pay the application fee under section 1102(b)(3).

SEC. 1105. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.
(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

TITLE II—AMERICAN PROMISE ACT

SEC. 2101. SHORT TITLE.

This title may be cited as the “American Promise Act”.

SEC. 2102. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR Deferred Enforced Departure.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b) if the alien—

(1) applies for such adjustment, including submitting any required documents under section 3107, not later than 5 years after the date of the enactment of this Act;
(2) has been continuously physically present in
the United States for a period of not less than 5
years; and

(3) subject to subsection (c), is not inadmissible
under paragraph (1), (2), (3), (6)(D), (6)(E),
(6)(F), (6)(G), (8), or (10) of section 212(a) of the
Immigration and Nationality Act (8 U.S.C.
1182(a)).

(b) Aliens Eligible for Adjustment of Status.—An alien shall be eligible for adjustment of status
under this section if the alien is an individual—

(1) who—

(A) is a national of a foreign state (or part
thereof) (or in the case of an alien having no
nationality, is a person who last habitually re-
sided in such state) with a designation under
subsection (b) of section 244 of the Immigra-
tion and Nationality Act (8 U.S.C. 1254a(b))
on July 4, 2017, who had or was otherwise eli-
gible for temporary protected status on such
date notwithstanding subsections (c)(1)(A)(iv)
and (c)(3)(C) of such section; and

(B) has not engaged in conduct since such
date that would render the alien ineligible for
temporary protected status under section
244(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1245a(c)(2)); or

(2) who was eligible for Deferred Enforced Departure as of January 20, 2021 and has not engaged in conduct since that date that would render the alien ineligible for Deferred Enforced Departure.

(c) WAIVER OF GROUNDS OF INADMISSIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), with respect to any benefit under this title, and in addition to any waivers that are otherwise available, the Secretary may waive the grounds of inadmissibility under paragraph (1), subparagraphs (A), (C), and (D) of paragraph (2), subparagraphs (D) through (G) of paragraph (6), or paragraph (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(2) EXCEPTION.—The Secretary may not waive a ground described in paragraph (1) if such inadmissibility is based on a conviction or convictions, and such conviction or convictions would otherwise render the alien ineligible under section 244(c)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)).
(d) Application.—

(1) Fee.—The Secretary shall, subject to an exemption under section 3103(c), require an alien applying for adjustment of status under this section to pay a reasonable fee that is commensurate with the cost of processing the application, but does not exceed $1,140.

(2) Background checks.—The Secretary may not grant an alien permanent resident status on a conditional basis under this section until the requirements of section 3102 are satisfied.

(3) Withdrawal of application.—The Secretary of Homeland Security shall, upon receipt of a request to withdraw an application for adjustment of status under this section, cease processing of the application and close the case. Withdrawal of the application under this subsection shall not prejudice any future application filed by the applicant for any immigration benefit under this title or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 2103. CLARIFICATION.

Section 244(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(4)) is amended by inserting after
“considered” the following: “as having been inspected and
admitted into the United States, and”.

TITLE III—GENERAL
PROVISIONS

SEC. 3101. DEFINITIONS.

(a) In general.—In this division:

(1) In general.—Except as otherwise specifi-
cally provided, any term used in this division that is
used in the immigration laws shall have the meaning
given such term in the immigration laws.

(2) Appropriate United States District
Court.—The term “appropriate United States dis-
trict court” means the United States District Court
for the District of Columbia or the United States
district court with jurisdiction over the alien’s prin-
cipal place of residence.

(3) Area Career and Technical Education
School.—The term “area career and technical edu-
cation school” has the meaning given such term in
section 3 of the Carl D. Perkins Career and Tech-

(4) DACA.—The term “DACA” means de-
ferred action granted to an alien pursuant to the
Deferred Action for Childhood Arrivals policy an-

(5) DISABILITY.—The term “disability” has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(6) FEDERAL POVERTY LINE.—The term “Federal poverty line” has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(7) HIGH SCHOOL; SECONDARY SCHOOL.—The terms “high school” and “secondary school” have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education”—

(A) except as provided in subparagraph (B), has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and
(B) does not include an institution of higher education outside of the United States.

(10) **RECOGNIZED POSTSECONDARY CREDENTIAL.**—The term “recognized postsecondary credential” has the meaning given such term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(11) **SECRETARY.**—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Homeland Security.

(12) **UNIFORMED SERVICES.**—The term “Uniformed Services” has the meaning given the term “uniformed services” in section 101(a) of title 10, United States Code.

(b) **TREATMENT OF EXPUNGED CONVICTIONS.**—For purposes of adjustment of status under this division, the terms “convicted” and “conviction”, as used in this division and in sections 212 and 244 of the Immigration and Nationality Act (8 U.S.C. 1182, 1254a), do not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

**SEC. 3102. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA; BACKGROUND CHECKS.**

(a) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.**—The Secretary may not grant an alien adjustment
of status under this division, on either a conditional or permanent basis, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for adjustment of status under this division, on either a conditional or permanent basis. The status of an alien may not be adjusted, on either a conditional or permanent basis, unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

SEC. 3103. LIMITATION ON REMOVAL; APPLICATION AND FEE EXEMPTION; AND OTHER CONDITIONS ON ELIGIBLE INDIVIDUALS.

(a) LIMITATION ON REMOVAL.—An alien who appears to be prima facie eligible for relief under this division shall be given a reasonable opportunity to apply for such relief and may not be removed until, subject to sec-
tion 3106(c)(2), a final decision establishing ineligibility for relief is rendered.

(b) APPLICATION.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for adjustment of status under this division. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(c) FEE EXEMPTION.—An applicant may be exempted from paying an application fee required under this division if the applicant—

(1) is 18 years of age or younger;

(2) received total income, during the 12-month period immediately preceding the date on which the applicant files an application under this division, that is less than 150 percent of the Federal poverty line;
(3) is in foster care or otherwise lacks any parental or other familial support; or

(4) cannot care for himself or herself because of a serious, chronic disability.

(d) ADVANCE PAROLE.—During the period beginning on the date on which an alien applies for adjustment of status under this division and ending on the date on which the Secretary makes a final decision regarding such application, the alien shall be eligible to apply for advance parole. Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted advance parole under this Act.

(e) EMPLOYMENT.—An alien whose removal is stayed pursuant to this division, who may not be placed in removal proceedings pursuant to this division, or who has pending an application under this division, shall, upon application to the Secretary, be granted an employment authorization document.

SEC. 3104. DETERMINATION OF CONTINUOUS PRESENCE AND RESIDENCE.

(a) EFFECT OF NOTICE TO APPEAR.—Any period of continuous physical presence or continuous residence in the United States of an alien who applies for permanent resident status under this division (whether on a conditional basis or without the conditional basis as provided
in section 1104(c)(2)) shall not terminate when the alien
is served a notice to appear under section 239(a) of the
Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE
OR RESIDENCE.—

(1) IN GENERAL.—Except as provided in para-
graphs (2) and (3), an alien shall be considered to
have failed to maintain—

(A) continuous physical presence in the
United States under this division if the alien
has departed from the United States for any
period exceeding 90 days or for any periods, in
the aggregate, exceeding 180 days; and

(B) continuous residence in the United
States under this division if the alien has de-
parted from the United States for any period
exceeding 180 days, unless the alien establishes
to the satisfaction of the Secretary of Home-
land Security that the alien did not in fact
abandon residence in the United States during
such period.

(2) EXTENSIONS FOR EXTENUATING CIR-
CUMSTANCES.—The Secretary may extend the time
periods described in paragraph (1) for an alien who
demonstrates that the failure to timely return to the
United States was due to extenuating circumstances beyond the alien’s control, including—

(A) the serious illness of the alien;

(B) death or serious illness of a parent, grandparent, sibling, or child of the alien;

(C) processing delays associated with the application process for a visa or other travel document; or

(D) restrictions on international travel due to the public health emergency declared by the Secretary of Health and Human Services under section 3119 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under paragraph (1).

(c) WAIVER OF PHYSICAL PRESENCE.—With respect to aliens who were removed or departed the United States on or after January 20, 2017, and who were continuously physically present in the United States for at least 5 years prior to such removal or departure, the Secretary may, as a matter of discretion, waive the physical presence re-
quirement under section 1102(b)(1)(A) or section 2102(a)(2) for humanitarian purposes, for family unity, or because a waiver is otherwise in the public interest. The Secretary, in consultation with the Secretary of State, shall establish a procedure for such aliens to apply for relief under section 1102 or 202 from outside the United States if they would have been eligible for relief under such section, but for their removal or departure.

SEC. 3105. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this division or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)).

SEC. 3106. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Administrative Review.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall provide to aliens who have applied for adjustment of status under this division a process by which an applicant may seek administrative appellate review of a denial of an application for adjustment of status, or a revocation of such status.
(b) Judicial Review.—Except as provided in subsection (c), and notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status, or a revocation of such status, under this division in an appropriate United States district court.

(c) Stay of Removal.—

(1) In General.—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this division may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) Exception.—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds described in this division. Such removal shall not affect the alien’s right to judicial review under this division. The Secretary shall promptly return a removed alien if a decision to deny an application for adjustment of status under this division, or to revoke such status, is reversed.

SEC. 3107. DOCUMENTATION REQUIREMENTS.

(a) Documents Establishing Identity.—An alien’s application for permanent resident status under
this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(e)(2)) may include, as evidence of identity, the following:

(1) A passport or national identity document from the alien’s country of origin that includes the alien’s name and the alien’s photograph or fingerprint.

(2) The alien’s birth certificate and an identity card that includes the alien’s name and photograph.

(3) A school identification card that includes the alien’s name and photograph, and school records showing the alien’s name and that the alien is or was enrolled at the school.

(4) A Uniformed Services identification card issued by the Department of Defense.

(5) Any immigration or other document issued by the United States Government bearing the alien’s name and photograph.

(6) A State-issued identification card bearing the alien’s name and photograph.

(7) Any other evidence determined to be credible by the Secretary.

(b) DOCUMENTS ESTABLISHING ENTRY, CONTINUOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF RESIDENCE.—To establish that an alien was 18 years of
age or younger on the date on which the alien entered
the United States, and has continuously resided in the
United States since such entry, as required under section
1102(b)(1)(B), that an alien has been continuously phys-
ically present in the United States, as required under sec-
tion 1102(b)(1)(A) or 202(a)(2), or that an alien has not
abandoned residence in the United States, as required
under section 1104(a)(1)(B), the alien may submit the fol-
lowing forms of evidence:

(1) Passport entries, including admission
stamps on the alien’s passport.

(2) Any document from the Department of Just-
ice or the Department of Homeland Security noting
the alien’s date of entry into the United States.

(3) Records from any educational institution
the alien has attended in the United States.

(4) Employment records of the alien that in-
clude the employer’s name and contact information,
or other records demonstrating earned income.

(5) Records of service from the Uniformed
Services.

(6) Official records from a religious entity con-
firming the alien’s participation in a religious cere-
mony.
(7) A birth certificate for a child who was born in the United States.

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

(10) Deeds, mortgages, or rental agreement contracts.

(11) Rent receipts or utility bills bearing the alien’s name or the name of an immediate family member of the alien, and the alien’s address.

(12) Tax receipts.

(13) Insurance policies.

(14) Remittance records, including copies of money order receipts sent in or out of the country.

(15) Travel records.

(16) Dated bank transactions.

(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien’s continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and
(B) the nature and duration of the relationship between the affiant and the alien.

(18) Any other evidence determined to be credible by the Secretary.

(c) Documents Establishing Admission to an Institution of Higher Education.—To establish that an alien has been admitted to an institution of higher education, the alien may submit to the Secretary a document from the institution of higher education certifying that the alien—

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

(d) Documents Establishing Receipt of a Degree From an Institution of Higher Education.—To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien may submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

(e) Documents Establishing Receipt of a High School Diploma, General Educational Development Credential, or a Recognized Equivalent.—To establish that in the United States an alien has earned a high school diploma or a commensurate alternative
award from a public or private high school, has obtained
the General Education Development credential, or other-
wise has satisfied section 1102(b)(1)(D)(iii), the alien may
submit to the Secretary the following:

(1) A high school diploma, certificate of comple-
tion, or other alternate award.

(2) A high school equivalency diploma or certifi-
cate recognized under State law.

(3) Evidence that the alien passed a State-au-
thorized exam, including the General Education De-
velopment test, in the United States.

(4) Evidence that the alien successfully com-
pleted an area career and technical education pro-
gram, such as a certification, certificate, or similar
alternate award.

(5) Evidence that the alien obtained a recog-
nized postsecondary credential.

(6) Any other evidence determined to be cred-
ible by the Secretary.

(f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
EDUCATIONAL PROGRAM.—To establish that an alien is
enrolled in any school or education program described in
section 1102(b)(1)(D)(iv) or 104(a)(1)(C), the alien may
submit school records from the United States school that
the alien is currently attending that include—
(1) the name of the school; and

(2) the alien’s name, periods of attendance, and current grade or educational level.

(g) **Documents Establishing Exemption From Application Fees.**—To establish that an alien is exempt from an application fee under this division, the alien may submit to the Secretary the following relevant documents:

(1) **Documents to Establish Age.**—To establish that an alien meets an age requirement, the alien may provide proof of identity, as described in subsection (a), that establishes that the alien is 18 years of age or younger.

(2) **Documents to Establish Income.**—To establish the alien’s income, the alien may provide—

(A) employment records or other records of earned income, including records that have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency;

(B) bank records; or

(C) at least two sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—
(i) the name, address, and telephone
number of the affiant; and

(ii) the nature and duration of the re-
lationship between the affiant and the
alien.

(3) DOCUMENTS TO ESTABLISH FOSTER CARE,
LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
DISABLEMENT.—To establish that the alien is in foster
care, lacks parental or familial support, or has a se-
rious, chronic disability, the alien may provide at
least two sworn affidavits from individuals who are
not related to the alien and who have direct knowl-
edge of the circumstances that contain—

(A) a statement that the alien is in foster
care, otherwise lacks any parental or other fa-
miliar support, or has a serious, chronic dis-
sability, as appropriate;

(B) the name, address, and telephone num-
ber of the affiant; and

(C) the nature and duration of the rela-
tionship between the affiant and the alien.

(h) DOCUMENTS ESTABLISHING QUALIFICATION FOR
HARDSHIP EXEMPTION.—To establish that an alien satis-
fies one of the criteria for the hardship exemption set forth
in section 1104(a)(2)(C), the alien may submit to the Sec-
retary at least two sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

(1) the name, address, and telephone number of the affiant; and

(2) the nature and duration of the relationship between the affiant and the alien.

(i) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien may submit to the Secretary—

(1) a Department of Defense form DD–214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or

(4) health records from the appropriate Uniformed Service.

(j) DOCUMENTS ESTABLISHING EARNED INCOME.—

(1) IN GENERAL.—An alien may satisfy the earned income requirement under section 1104(a)(1)(C)(iii) by submitting records that—
(A) establish compliance with such require-
ment; and

(B) have been maintained by the Social Se-
curity Administration, the Internal Revenue
Service, or any other Federal, State, or local
government agency.

(2) OTHER DOCUMENTS.—An alien who is un-
able to submit the records described in paragraph
(1) may satisfy the earned income requirement by
submitting at least two types of reliable documents
that provide evidence of employment or other forms
of earned income, including—

(A) bank records;

(B) business records;

(C) employer or contractor records;

(D) records of a labor union, day labor
center, or organization that assists workers in
employment;

(E) sworn affidavits from individuals who
are not related to the alien and who have direct
knowledge of the alien’s work, that contain—

(i) the name, address, and telephone
number of the affiant; and
(ii) the nature and duration of the relationship between the affiant and the alien;

(F) remittance records; or

(G) any other evidence determined to be credible by the Secretary.

(k) Authority to Prohibit Use of Certain Documents.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)) is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 3108. RULE MAKING.

(a) In General.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register interim final rules implementing this division, which shall allow eligible individuals to immediately apply for relief under this division. Notwithstanding section 553 of title 5, United States Code, the regulation shall be effective, on an interim basis, immediately upon publication, but may be subject to change
and revision after public notice and opportunity for a pe-
period of public comment. The Secretary shall finalize such
rules not later than 180 days after the date of publication.

(b) PAPERWORK REDUCTION ACT.—The require-
ments under chapter 35 of title 44, United States Code,
(commonly known as the “Paperwork Reduction Act”) shall not apply to any action to implement this Act.

SEC. 3109. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—The Secretary may not disclose
or use information (including information provided during
administrative or judicial review) provided in applications
filed under this division or in requests for DACA for the
purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based
solely on information provided in an application for adjust-
ment of status under this division (including information
provided during administrative or judicial review) or an
application for DACA, may not refer an applicant to U.S.
Immigration and Customs Enforcement, U.S. Customs
and Border Protection, or any designee of either such enti-
ty.

(c) LIMITED EXCEPTION.—Notwithstanding sub-
sections (a) and (b), information provided in an applica-
tion for adjustment of status under this division may be
shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this division;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

(4) for the investigation or prosecution of any felony offense not related to immigration status.

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 3110. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary shall establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this division by providing them with the services described in subsection (b).

(b) USE OF FUNDS.—Grant funds awarded under this section shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status
under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)), particularly to individuals potentially eligible for such status;

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for adjustment of status under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)), including—

(A) screening prospective applicants to assess their eligibility for such status;

(B) completing applications and petitions, including providing assistance in obtaining the requisite documents and supporting evidence; and

(C) providing any other assistance that the Secretary or grantee considers useful or necessary to apply for adjustment of status under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)); and

(3) assistance, within the scope of authorized practice of immigration law, and instruction, to individuals—
(A) on the rights and responsibilities of United States citizenship;

(B) in civics and English as a second language;

(C) in preparation for the General Education Development test; and

(D) in applying for adjustment of status and United States citizenship.

(e) Authorization of Appropriations.—

(1) Amounts Authorized.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2022 through 2032 to carry out this section.

(2) Availability.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 3111. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUSTMENT OF STATUS.

An alien’s eligibility to be lawfully admitted for permanent residence under this division (whether on a conditional basis, or without the conditional basis as provided in section 1104(c)(2)) shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.
(a) In General.—Except as provided in section 3102 and in cases where the applicant is exempt from paying a fee under section 3103(c), in any case in which a fee is charged pursuant to this division, an additional surcharge of $25 shall be imposed and collected for the purpose of providing appointed counsel to applicants seeking judicial review of the Secretary’s decision to provisionally deny an application under this Act.

(b) Immigration Counsel Account.—There is established in the general fund of the Treasury a separate account which shall be known as the “Immigration Counsel Account”. Fees collected under subsection (a) shall be deposited into the Immigration Counsel Account and shall remain available until expended for purposes of providing appointed counsel as required under this Act.

(c) Report.—At the end of each 2-year period, beginning with the establishment of this account, the Secretary of Homeland Security shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing appointed counsel as required under this Act.
SEC. 3113. ANNUAL REPORT ON PROVISIONAL DENIAL AUTHORITY.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the Congress a report detailing the number of applicants that receive—

(1) a provisional denial under this division;

(2) a final denial under this division without seeking judicial review;

(3) a final denial under this division after seeking judicial review; and

(4) an approval under this division after seeking judicial review.

TITLE IV—DIGNITY AND REDEMPTION PROGRAMS
Subtitle A—Dignity Program

SEC. 4001. ESTABLISHMENT.

(a) In General.—There is established a program, to be known as the “Dignity Program” under this subtitle, which shall provide for deferred action on removal and the provision of employment authorization in the case of eligible applicants, in accordance with the provisions of this subtitle.

(b) Abolition of 3 and 10 Year Bars.—For purposes of this subtitle, section 212(a)(9) of the Immigration and Nationality Act shall not apply for purposes of any
person who applies and thereafter participates in the Dignity Program.

SEC. 4002. ELIGIBILITY.

The Secretary of Homeland Security shall approve an application to participate in the Dignity Program from an eligible alien subject to the following:

(1) APPLICATION.—The applicant shall submit such information that the Secretary determines sufficient to prove the following:

(A) That the alien has been continually physically present in the United States since July 4, 2017.

(B) That the alien is not inadmissible under section 212(a) of the Immigration and Nationality Act (except that paragraph (9) shall not apply for purposes of this section).

(C) That the alien has included payment of a contribution to the American Worker Fund of $2,000.

(2) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA; BACKGROUND CHECKS.—

(A) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not approve such an application, unless the alien submits biometric and biographic data, in accord-
ance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(B) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for participation in the Dignity Program in accordance with paragraph (3). The application for participation in the Dignity Program may not be approved unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

(3) GROUNDS OF INELIGIBILITY.—Except as provided in paragraph (2), an alien is ineligible for participation in the Dignity Program if, excluding any offense under State law for which an essential element is the alien’s immigration status, and any minor traffic offense, the alien has been convicted of—
(A) any felony offense;

(B) two or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, and any offense involving civil disobedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(C) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(i) a victim of domestic violence, sexual assault, stalking, child abuse or neglect, abuse or neglect in later life, or human trafficking;

(ii) battered or subjected to extreme cruelty; or

SEC. 4003. REGISTRATION; DEPARTURE.

(a) Registration.—Any alien approved to participate in the Dignity Program shall—

(1) register with the Secretary of Homeland Security;

(2) submit biometric and biographic data to the Secretary;

(3) submit a sworn declaration stipulating to presence in the United States without a lawful immigration status, and, as appropriate, unlawful presence, in the United States;

(b) Departure.—Not later than 24 months after the date of enactment of this Act, any alien present in the United States without lawful status under the immigration laws, or not participating in the programs outlined in title A or B or seeking Certified Agricultural Worker status under this Act shall apply for the Dignity Program or depart the United States.

(c) Intentional Self-Deportation.—Any alien that voluntarily departs the United States not later than 24 months after the date of enactment of this Act shall not be subject to the provisions of section 212(a)(9) of the Immigration and Nationality Act with respect to—

(1) any removal ordered under section 235(b)(1) of such Act or at the end of proceedings
under section 240 of such Act initiated upon the
alien’s arrival in the United States; or

(2) any removal ordered under section 240 of
such Act,
prior to the date of enactment of this Act.

SEC. 4004. PROGRAM PARTICIPATION.

(a) IN GENERAL.—Any applicant who is approved to
participate in the Dignity Program shall make an appear-
ance before an immigration judge who shall issue an order
deferring further action for a period of 10 years.

(b) CONDITIONS.—Each participant in the Dignity
Program shall conform to the following:

(1) REPORT.—The participant shall biennially
report to the Secretary of Homeland Security and
provide the following information:

(A) Place of residence.

(B) Testimony as to good standing within
the community.

(2) SPONSORSHIP.—A United States national
may sponsor a prospective participant by providing
not more than half of the restitution due under
paragraph (3) and assist with an application.

(3) RESTITUTION.—The participant shall pay
an additional fee of $2,000 with each report under
paragraph (1), until a total amount of $10,000 has been paid.

(4) LAWFUL CONDUCT.—The participant shall comply with all Federal and State laws.

(5) EMPLOYMENT.—The participant shall remain, for a period of not less than 5 years during their participation in the Dignity Program, employed (including self-employment and serving as a caregiver) or while enrolled in a course of study at an institute of higher education, as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), or an area career and technical education school, as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302). The Secretary may waive the application of this paragraph in the case of any alien with dependents under the age of 12, or any alien the Secretary determines would be unable to reasonably comply by reason of a disability or other impediment.

(6) TAXES.—The participant shall pay any applicable taxes and satisfy any tax obligations outstanding as of the date of application approval.

(7) SUPPORT DEPENDENTS.—The participant shall support any dependents including by providing
food, shelter, clothing, education, and covering basic medical needs.

(8) MEDICAL COSTS.—

(A) IN GENERAL.—The participant shall be enrolled under qualifying health coverage.

(B) DEFINITION.—For purposes of this paragraph, the term “qualifying health coverage” means, with respect to the participant, the higher of the following levels of coverage applicable to such alien:

(i) At a minimum, catastrophic health insurance coverage that provides coverage of such individual with respect to at least the State of employment and State of residence of the alien.

(ii) In the case of an alien whose State of residence or State of employment requires such an alien to maintain coverage under health insurance, such health insurance.

(9) PUBLIC BENEFITS.—Beginning on the date of participation in the Dignity Program, the participant shall not avail himself or herself of any Federal means-tested benefits or entitlement programs. For purposes of this paragraph, any benefits received by
a child or dependent that is a United States citizen living in the same household shall not be taken into account.

(10) LEVY.—In addition to other taxes, there is hereby imposed on the income of every participant a tax equal to 2 percent of the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) received by the individual with respect to employment (as defined in section 3121(b) the Internal Revenue Code of 1986). The participant shall comply with the requirements of section 9512 of the Internal Revenue Code of 1986.

(11) EXEMPTION FROM CERTAIN PAYROLL TAXES.—A participant shall not be liable for any tax under section 3101 or 3102 of the Internal Revenue Code of 1986.

(c) VIOLATIONS.—If a participant violates a condition under subsection (b), the Secretary may at the Secretary’s discretion, waive enforcement of minor violations including late fees, take extenuating circumstances into effect, or consider factors of undue hardship, but in all other cases, the Secretary shall initiate removal proceedings. In such proceedings, the immigration judge may make a determination as to whether to order removal or to issue an
order modifying the conditions of that participant’s participation in the Dignity Program.

SEC. 4005. COMPLETION.

(a) IN GENERAL.—Upon satisfying the conditions set forth in subsection (b) and thereby successfully completing the Dignity Program, and subject to sections 1151 and 6115 of division A of this Act, the participant may choose—

(1) to receive a visa or status under this section; or

(2) to register for the Redemption Program under subtitle B.

(b) COMPLETION.—The conditions set forth in this subsection for successful completion of the Dignity Program are as follows:

(1) Compliance with all requirements of subsection (b)(1).

(2) Compliance with all requirements of subsection (b)(2).

(3) Compliance with the requirement of subsection (b)(3) for the entire period of the participation in the Dignity Program.

(e) DIGNITY Visa.—The visa or status under this section—

(1) shall be valid for a period of 5 years;
(2) may be renewed any number of times;

(3) shall provide the alien with—

(A) lawful status as a nonimmigrant;

(B) authorization for employment; and

(C) the ability to reenter the United States any number of times; and

(4) shall preclude the alien from adjusting to any other status.

(d) REDEMPTION PROGRAM.—Upon renewal of a visa under this section, an applicant may choose to register for the Redemption Program under subtitle B.

Subtitle B—Redemption Program

SEC. 4101. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a program, to be known as the “Redemption Program”, under which eligible applicants may acquire conditional redemption status, and shall be authorized to apply for lawful permanent residency under the immigration laws in accordance with section 4103. Such status shall be valid for a period of 5 years, and may be renewed any number of times.

(b) ELIGIBILITY.—To be eligible to apply under the Redemption Program, an applicant shall be an alien who has successfully completed the Dignity Program under subtitle A.
(c) STATUS.—In the case of an alien who is an eligible applicant granted conditional redemption status under this section, the alien—

(1) may not be removed or return the alien to the alien’s country of nationality or, in the case of a person having no nationality, the country of the alien’s last habitual residence;

(2) shall be authorized to engage in employment in the United States and be provided with appropriate endorsement of that authorization; and

(3) may be allowed the alien to travel abroad with prior consent.

(d) CONDITIONALITY.—Conditional redemption status does not convey a right to remain permanently in the United States, and may be terminated if it is determined that the alien has violated any condition set forth under section 4102.

SEC. 4102. CONDITIONS.

An alien receiving conditional status under section 4101 shall comply with the following:

(1) The alien shall report to the Secretary of Homeland Security every 20 months.

(2) The alien shall maintain an accurate record with the Secretary of the following:

(A) The alien’s place of residence.
(B) Testimony regarding good standing within the community.

(3) The alien shall complete either of the following:

(A) Payment of additional fees of $2,500 upon each report under paragraph (1), but not to exceed a total of $7,500; or

(B) Certification that the alien has completed such community service requirement as the Secretary may establish, consistent with the following:

(i) Not less than 200 hours of community service shall be required.

(ii) The community service may be completed with the National Service Corps or with other, local community service providers, as the Secretary determines appropriate.

(4) The alien has learned English.

(5) The alien has learned United States civics.

SEC. 4103. COMPLETION AND REMOVAL OF CONDITIONAL STATUS.

If an alien maintains compliance with the requirements of this section for a period of 5 years beginning on the date that the alien’s application for participation
in the Redemption Program is approved, then that alien
shall be eligible to apply for adjustment of status to that
of a lawful permanent resident, except that the alien’s sta-
tus granted under section 4101 may not be extended un-
less the alien demonstrates that the alien satisfies the re-
quirements under section 312(a) of the Immigration and
Nationality Act (8 U.S.C. 1423(a)).

Subtitle C—Contribution to
American Workers

SEC. 4200. PURPOSE.

This subtitle shall direct restitution payments from
the Dignity and Redemption programs to be disbursed to
American workers through promoting apprenticeships and
other work-based learning programs for small and me-
dium-sized businesses within in-demand industry sectors,
through the establishment and support of industry or sec-
tor partnerships.

SEC. 4201. AVAILABILITY OF FUNDS.

From funds paid by restitution under title IV of divi-
sion B of the Dignity for Immigrants while Guarding our
Nation to Ignite and Deliver the American Dream Act and
available under section 286(s)(2) of the Immigration and
Nationality Act (8 U.S.C. 1356(s)(2)), the Secretary shall
carry out this Act.
SEC. 4202. CONFORMING AMENDMENTS.

(a) American Competitiveness and Workforce Improvement Act of 1998.—Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 2916a) is repealed.

(b) Immigration and Nationality Act.—Section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) is amended to read as follows:

“(2) Use of fees for work-based learning programs.—90 percent of amounts deposited into the H–1B Nonimmigrant Petitioner Account pursuant to the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act shall remain available to the Secretary of Labor until expended to carry out the Dignity for Immigrants while Guarding our Nation to Ignite and Deliver the American Dream Act.”

PART 1—PROMOTING APPRENTICESHIPS THROUGH REGIONAL TRAINING NETWORKS

SEC. 4301. DEFINITIONS.

In this Act:

(1) Eligible partnership.—The term “eligible partnership” means an industry or sector partnership as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102) that
submits and obtains approval of an application consistent with section 5(c).

(2) IN-DEMAND INDUSTRY SECTOR.—The term “in-demand industry sector” means a sector described in subparagraphs (A)(i) and (B) of section 3(23) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(23)).

(3) LOCAL OR REGIONAL.—The term “local or regional”, used with respect to an entity, means that the entity provides services in, respectively, a local area or region.

(4) WORKFORCE TERMS.—The terms “Governor”, “individual with a barrier to employment”, “industry or sector partnership”, “local area”, “local board”, “State board”, “outlying area”, “recognized postsecondary credential”, “region”, “State”, and “supportive services”, used with respect to activities supported under this Act, have the meanings given the terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

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

SEC. 4302. ALLOTMENTS TO STATES.

(a) RESERVATION.—Of the amounts available for this Act under section 4, the Secretary may reserve—
(1) not more than 5 percent of those amounts for the costs of technical assistance and Federal administration of this Act;

(2) not more than 2 percent of those amounts for the costs of evaluations conducted under section 8(b); and

(3) not more than 1/4 of 1 percent of such amounts to provide assistance to the outlying areas.

(b) ALLOTMENTS.—

(1) IN GENERAL.—Of the amounts available for this Act under section 4 that remain after the Secretary makes the reservations under subsection (a), the Secretary shall, for the purpose of supporting (which may include assistance in establishing expanded) local or regional eligible partnerships to support work-based learning programs under this Act, make allotments to eligible States in accordance with clauses (ii) through (v) of section 132(b)(1)(B) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3162(b)(1)(C)), subject to paragraph (2).

(2) APPLICATION.—For purposes of applying the clauses described in paragraph (1), under paragraph (1), the Secretary—
(A) shall not apply subclauses (I) and (III)
of clause (iv) with respect to the first fiscal year
after the date of enactment of this Act;

(B) shall apply clause (iv)(II) by sub-
stituting “0.5 percent of the remaining amounts
described in paragraph (1)” for the total de-
scribed in that clause;

(C) shall not apply clause (iv)(IV);

(D) shall apply clause (v)(II) by sub-
stituting the term “allotment percentage”, used
with respect to the second full fiscal year after
the date of enactment of this Act, or a subse-
quent fiscal year, means a percentage of the re-
main ing amounts described in paragraph (1)
that is received through an allotment made
under this subsection for the fiscal year for the
two sentences in that clause; and

(E) shall apply clause (v)(III) by sub-
stituting “a work-based learning program car-
rried out under this Act” for “a program of
workforce investment activities carried out
under this subtitle”.

(3) USE OF UNALLOTTED FUNDS.—If a State
fails to meet the requirements for an allotment
under this subsection, the Secretary may allot funds
that are not allotted under paragraphs (1) and (2) to eligible States under a formula based on the formula specified in section 132(c) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3173(c)).

(4) DEFINITION.—In this subsection, the term “eligible State” means a State that meets the requirements of section 102 or 103 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3112, 3113) and subsection (c).

(c) STATE ELIGIBILITY.—To be eligible to receive an allotment under subsection (b), a State, in consultation with State boards and local boards, shall submit an application to the Secretary, at such time, in such manner, and containing a description of the activities to be carried out with the grant funds. At a minimum, the application shall include information on—

(1) the local or regional industry or sector partnerships that will be supported, including the lead partners for the partnerships, and how the partnerships will work to engage small and medium-sized businesses, as applicable, in the activities of the partnerships;

(2) the in-demand industry sectors that will be served, including how such industry sectors were identified, and how the activities of the partnerships
will align with State, regional, and local plans as re-
quired under title I of the Workforce Innovation and
Opportunity Act (29 U.S.C. 3111 et seq.);

(3) the apprenticeship programs or other work-
based learning programs to be supported though the
partnerships;

(4) the populations that will receive services, in-
cluding individuals with barriers to employment and
populations that were historically underrepresented
in the industry sectors to be served through the
partnerships;

(5) the services, including business engagement,
classroom instruction, and support services (includ-
ing at least 6 months of post-employment support
services), that will be supported through the grant
funds;

(6) the recognized postsecondary credentials
that workers will obtain through participation in the
program and the quality of the program that leads
to the credentials;

(7) levels of performance to be achieved on the
performance indicators described in section 8, to
measure progress towards expanding work-based
learning programs;
(8) how local or regional partnerships will leverage additional resources, including funding provided under title I of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111 et seq.) and non-Federal resources, to support the activities carried out under this Act; and

(9) such other subjects as the Secretary may require.

(d) REVIEW OF APPLICATIONS.—The Secretary shall review applications submitted under subsection (c) in consultation with the Secretary of Education and the Secretary of Health and Human Services.

SEC. 4303. GRANTS TO PARTNERSHIPS.

(a) GRANTS.—

(1) IN GENERAL.—The Governor of a State that receives an allotment under section 5 shall use the funds made available through the allotment and not reserved under subsection (d) to award grants to eligible partnerships. The Governor shall award the grants for the purpose of assisting (which may include establishing or expanding) local or regional industry or sector partnerships that are identified in the application submitted under section 5(c), to carry out activities described in section 7.
(2) Period of Grant.—A State may make a grant under this section for a period of 3 years.

(3) Availability of Funds.—The Governor of a State that receives an allotment under section 5 for a fiscal year may use the funds made available through the allotment during that year or the 2 subsequent fiscal years.

(b) Eligibility.—To be eligible to receive a grant under this section, an industry or sector partnership described in subsection (a)(1) shall—

(1) submit an application to the State at such time, in such manner, and containing such information as the State may require; and

(2) designate a partner in the industry or sector partnership, to serve as the fiscal agent for purposes of the grant.

(c) Awards of Grants.—

(1) Participation in Multiple Eligible Partnerships.—Subject to paragraph (2), a State may award grants under this section in a way that results in an entity being represented in more than one partnership that receives such a grant.

(2) Geographic Diversity.—In making the grants, a State shall ensure that there is geographic
diversity in the areas in which activities will be carried out under the grants.

(d) ADMINISTRATION.—The State may reserve not more than 5 percent of the amount of an allotment under section 5 for the administration of the grants awarded under this section.

SEC. 4304. USE OF FUNDS.

(a) IN GENERAL.—An eligible partnership that receives a grant under section 6 shall use the grant funds to support apprenticeships or other work-based learning programs. The eligible partnership shall use the grant funds to support the activities described in subsections (b) and (c) and such other strategies as may be necessary to support the development and implementation of work-based learning programs, and participant retention in and completion of those programs. The partnership may use the grant funds to establish or expand eligible partnerships.

(b) BUSINESS ENGAGEMENT.—The eligible partnership shall use grant funds to provide services to engage businesses in work-based learning programs, which may include assisting a small or medium-sized business with—

(1) the navigation of the registration process for a sponsor of an apprenticeship program;
(2) the connection of the business with an education provider to develop classroom instruction to complement on-the-job learning;

(3) the development of a curriculum for a work-based learning program;

(4) the employment of workers in a work-based learning program for a transitional period before the business hires an individual for continuing employment;

(5) the provision of training to managers and front-line workers to serve as trainers or mentors to workers in the work-based learning program;

(6) the provision of career awareness activities; and

(7) the recruitment of individuals to participate in a work-based learning program from individuals receiving additional workforce and human services, including—

(A) workers in programs under the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.);

(B) recipients of assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); and
(C) recipients of assistance through the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(c) SUPPORT SERVICES FOR WORKERS.—

(1) IN GENERAL.—The eligible partnership shall use grant funds to provide support services for workers to assure their success in work-based learning programs, which may include—

(A) connection of individuals with adult basic education during pre-work-based learning or training, and during the period of employment;

(B) connection of individuals with pre-work-based learning or training, including through a pre-apprenticeship program;

(C) provision of additional mentorship and retention supports for individuals pre-work-based learning or training, and during the period of employment;

(D) provision of tools, work attire, and other required items necessary to start employment pre-work-based learning or training, and during the period of employment; and
(E) provision of transportation, child care
services, or other support services pre-work-

based learning or training, and during the pe-

riod of employment.

(2) LENGTH OF SERVICES.—Each eligible part-
nership shall provide support services for workers for
not less than 12 months after the date of placement
of an individual in a work-based learning program.
That 12-month period shall include a period of pre-
work-based learning or training, a transitional pe-
riod of employment as described in subsection
(b)(4), and a period of continuing employment.

SEC. 4305. PERFORMANCE AND ACCOUNTABILITY.

(a) LOCAL REPORTS.—Not later than 1 year after
receiving a grant under section 6, and annually thereafter,
each eligible partnership in a State shall conduct an eval-
uation and submit to the State a local report containing
information on—

(1) levels of performance achieved by the eligi-
ble partnership with respect to the performance indi-
cators under section 116(b)(2)(A) of the Workforce
Innovation and Opportunity Act (29 U.S.C.
3141(b)(2)(A))—

(A) for all workers in the work-based
learning program involved; and
(B) for all such workers, disaggregated by each population specified in section 3(24) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(24)) and by race, ethnicity, sex, and age; and

(2) levels of performance achieved by the eligible partnership with respect to the performance indicators under that section 116(b)(2)(A)—

(A) for individuals with barriers to employment in the work-based learning program involved; and

(B) for all such individuals, disaggregated by each population specified in section 3(24) of the Workforce Innovation and Opportunity Act and by race, ethnicity, sex, and age.

(b) STATE REPORTS.—Not later than 24 months after receiving initial local reports under subsection (a) (but in no case less than 18 months after the corresponding grants are awarded) and annually thereafter, the State shall conduct an evaluation and submit a report to the Secretary containing—

(1) the information provided by the eligible partnerships through the local reports; and
(2) the State level of performance, aggregated across all eligible partnerships, with respect to the performance indicators described in subsection (a).

PART 2—HIGH-DEMAND CAREERS

SEC. 4401. GRANTS FOR ACCESS TO HIGH-DEMAND CAREERS.

(a) PURPOSE.—The purpose of this section is to expand student access to, and participation in, new industry-led earn-and-learn programs leading to high-wage, high-skill, and high-demand careers.

(b) AUTHORIZATION OF APPRENTICESHIP GRANT PROGRAM.—

(1) IN GENERAL.—From the amounts authorized under subsection (j), the Secretary shall award grants, on a competitive basis, to eligible partnerships for the purpose described in subsection (a).

(2) DURATION.—The Secretary shall award grants under this section for a period of—

(A) not less than 1 year; and

(B) not more than 4 years.

(3) LIMITATIONS.—

(A) NUMBER OF AWARDS.—An eligible partnership or member of such partnership may not be awarded more than one grant under this section.
(B) Administration Costs.—An eligible partnership awarded a grant under this section may not use more than 5 percent of the grant funds to pay administrative costs associated with activities funded by the grant.

(c) Matching Funds.—To receive a grant under this section, an eligible partnership shall, through cash or in-kind contributions, provide matching funds from non-Federal sources in an amount equal to or greater than 50 percent of the amount of such grant.

(d) Applications.—

(1) In General.—To receive a grant under this section, an eligible partnership shall submit to the Secretary at such a time as the Secretary may require, an application that—

(A) identifies and designates the business or institution of higher education responsible for the administration and supervision of the earn-and-learn program for which such grant funds would be used;

(B) identifies the businesses and institutions of higher education that comprise the eligible partnership;

(C) identifies the source and amount of the matching funds required under subsection (c);
(D) identifies the number of students who will participate and complete the relevant earn-and-learn program within 1 year of the expiration of the grant;

(E) identifies the amount of time, not to exceed 2 years, required for students to complete the program; identifies the relevant recognized postsecondary credential to be awarded to students who complete the program;

(G) identifies the anticipated earnings of students

(i) 1 year after program completion;

and

(ii) 3 years after program completion;

(H) describes the specific project for which the application is submitted, including a summary of the relevant classroom and paid structured on-the-job training students will receive;

(I) describes how the eligible partnership will finance the program after the end of the grant period;

(J) describes how the eligible partnership will support the collection of information and data for purposes of the program evaluation required under subsection (h); and
(K) describes the alignment of the program, with State identified in-demand industry sectors.

(e) EVALUATION.—

(1) IN GENERAL.—From the amounts made available under subsection (a), the Secretary shall provide for the independent evaluation of the grant program established under this section that includes the following:

(A) The number of eligible individuals who participated in programs assisted under this section.

(B) The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program.

(C) The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.

(D) The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program.
(E) The percentage of program participants who obtain a recognized postsecondary credential during participation in the program.

(2) PUBLICATION.—The evaluation required by this subsection shall be made publicly available on the website of the Department.

(f) DEFINITIONS.—In this section:

(1) EARN-AND-LEARN PROGRAM.—The term “earn-and-learn program” means an education program, including an apprenticeship program, that provides students with structured, sustained, and paid on-the-job training and accompanying, for credit, classroom instruction that—

(A) is for a period of between 3 months and 2 years; and

(B) leads to, on completion of the program, a recognized postsecondary credential.

(2) ELIGIBLE PARTNERSHIP.—The term “eligible partnership” shall mean a consortium that includes—

(A) 1 or more businesses; and

(B) 1 or more institutions of higher education.

(3) IN-DEMAND INDUSTRY SECTOR OR OCCUPATION.—The term “in-demand industry sec-
tor or occupation” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity 13 Act (29 U.S.C. 3102).

(4) ON-THE-JOB TRAINING.—the term “on-the-job training” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(5) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term “recognized postsecondary credential” has the meaning given the term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

DIVISION C—IMPROVING THE H-2B NONIMMIGRANT WORKER PROGRAM

SEC. 1001. SHORT TITLE.

This division may be cited as the “H–2B Returning Worker Exception Act”.

SEC. 1002. DEFINITIONS.

For purposes of this division:

(1) The term “H–2B”, when used with respect to a worker or other individual, refers an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C.
1101(a)(15)(H)(ii)(b)). Such term, when used with
respect to a petition, procedure, process, program, or
visa, refers to a petition, procedure, process, pro-
gram, or visa related to admission or provision of
status under such section.

(2) The term “job order” means the document
containing the material terms and conditions of em-
ployment, including obligations and assurances re-
quired under this division or any other law.

(3) The term “United States worker” means
any employee who is—

(A) a national of the United States (as de-
defined in section 101(a)(22) of the Immigration
and Nationality Act (8 U.S.C. 1101(a)(22))); or

(B) an alien lawfully admitted for perma-
nent residence, is admitted as a refugee under
section 207 of such Act (8 U.S.C. 1157), is
granted asylum under section 208 of such Act
(8 U.S.C. 1158), or is an immigrant otherwise
authorized by the immigration laws (as defined
in section 101(a)(17) of such Act (8 U.S.C.
1101(a)(17))) or the Secretary of Homeland
Security to be employed.
SEC. 1003. H–2B CAP RELIEF.

(a) H–2B NUMERICAL LIMITATIONS.—Section 214(g)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(9)(A)) is amended—

(1) by striking “fiscal year 2013, 2014, or 2015” and inserting “1 of the 3 preceding fiscal years”; and

(2) by striking “fiscal year 2016” and inserting “a fiscal year”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2021. If this section is enacted after such date, the amendment made by subsection (a) shall take effect as if enacted on such date.

SEC. 1004. INCREASED SANCTIONS FOR WILLFUL MISREPRESENTATION OR FAILURE TO MEET THE REQUIREMENTS FOR PETITIONING FOR AN H–2B WORKER.

Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended—

(1) in subsection (c)(13)(B), by striking “$150” and inserting “$350”; and

(2) in subsection (c)(14)(A)(i), by striking “may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed
$10,000 per violation)’’ and inserting ‘‘shall impose
civil monetary penalties in an amount of not less
than $1,000 but not to exceed $10,000 per violation,
in addition to any other remedy authorized by law,
and may impose such other administrative rem-
edies’’.

SEC. 1005. REDUCTION OF PAPERWORK BURDEN.

(a) STREAMLINED H–2B PLATFORM.—

(1) IN GENERAL.—Not later than 12 months
after the date of the enactment of this division, the
Secretary of Homeland Security, in consultation
with the Secretary of Labor, the Secretary of State,
and the Administrator of the United States Digital
Service, shall ensure the establishment of an elec-
tronic platform through which employers may sub-
mit and request approval of an H–2B petition. Such
platform shall—

(A) serve as a single point of access for
employers to input all information and sup-
porting documentation required for obtaining
labor certification from the Secretary of Labor
and the adjudication of the petition by the Sec-
retary of Homeland Security;

(B) serve as a single point of access for the
Secretary of Homeland Security, the Secretary
of Labor, the Secretary of State, and State workforce agencies concurrently to perform their respective review and adjudicatory responsibilities in the petition process;

(C) facilitate communication between employers and agency adjudicators, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) receive notices of approval and denial; and

(iii) request reconsideration or appeal of agency decisions; and

(D) provide information to the Secretary of State and the Secretary of Homeland Security necessary for the efficient and secure processing of H–2B visas and applications for admission.

(2) OBJECTIVES.—In developing the platform described in paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Administrator of the United States Digital Service, shall make an effort to streamline and improve the H–2B process, including by—
(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;

(B) reducing common petition errors, and otherwise improving and expediting the processing of H–2B petitions;

(C) ensuring compliance with H–2B program requirements and the protection of the wages and working conditions of workers; and

(D) eliminating unnecessary government waste.

(3) ENHANCEMENT OF EXISTING PLATFORM.—If the Secretary of Homeland Security, the Secretary of Labor, the Secretary of State, or the State workforce agencies already have an electronic platform with respect to the H–2B process on the date of the enactment of this division, they shall enhance it as necessary so as to ensure that adjudication of an H–2B petition may be conducted electronically as specified in this section.

(b) ONLINE JOB REGISTRY.—The Secretary of Labor shall maintain a publicly-accessible online job registry and database of all job orders submitted by H–2B employers. The registry and database shall—
(1) be searchable using relevant criteria, including the types of jobs needed to be filled, the dates and locations of need, and the employers named in the job order;

(2) provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and

(3) provide for public access of job order certifications.

SEC. 1006. WORKPLACE SAFETY.

(a) WORKSITE SAFETY AND COMPLIANCE PLAN.—If the employer is seeking to employ an H–2B worker pursuant to this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the employer shall maintain an effective worksite safety and compliance plan to ensure safety and reduce workplace illnesses, injuries and fatalities. Such plan shall—

(1) be in writing in English and, to the extent necessary, any language common to a significant portion of the workers if they are not fluent in English; and

(2) be posted at a conspicuous location at the worksite and provided to employees prior to the commencement of labor or services.
(b) CONTENTS OF PLAN.—The Secretary of Labor shall establish by regulation the minimum requirements for the plan described in subsection (a). Such plan shall include measures to—

(1) protect against sexual harassment and violence, resolve complaints involving harassment or violence, and protect against retaliation against workers reporting harassment or violence; and

(2) contain other provisions necessary for ensuring workplace safety.

SEC. 1007. FOREIGN LABOR RECRUITING; PROHIBITION ON FEES.

(a) FOREIGN LABOR RECRUITING.—If an employer has engaged any foreign labor contractor or recruiter (or any agent of such a foreign labor contractor or recruiter) in the recruitment of H–2B workers, the employer shall disclose the identity and geographic location of such person or entity to the Secretary of Labor in accordance with the regulations of the Secretary.

(b) PROHIBITION AGAINST EMPLOYEES PAYING FEES.—Neither the employer nor its agents shall seek or receive payment of any kind from any worker for any activity related to the H–2B petition process, including payment of the employer’s attorneys’ fees, application fees, or recruitment costs. An employer and its agents may re-
receive reimbursement for costs that are the responsibility, and primarily for the benefit, of the worker, such as government-required passport fees.

(c) THIRD PARTY CONTRACTS.—The employer shall contractually forbid any foreign labor contractor or recruiter (or any agent of a foreign labor contractor or recruiter) who the employer engages, either directly or indirectly, in the recruitment of H–2B workers to seek or receive payments or other compensation from prospective employees. Upon learning that a foreign labor contractor or recruiter has collected such payments, the employer shall terminate any contracts with the foreign labor contractor or recruiter.

SEC. 1008. PROGRAM INTEGRITY MEASURES.

(a) ENFORCEMENT AUTHORITY.—With respect to the H–2B program, the Secretary of Labor is authorized to take such actions against employers, including imposing appropriate penalties and seeking monetary and injunctive relief and specific performance of contractual obligations, as may be necessary to ensure compliance with—

(1) the requirements of this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(2) the applicable terms and conditions of employment.
(b) Complaint Process.—

(1) Process.—With respect to the H–2B program, the Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints alleging failure of an employer to comply with—

(A) the requirements of this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) the applicable terms and conditions of employment.

(2) Filing.—Any aggrieved person or organization, including a bargaining representative, may file a complaint referred to in paragraph (1) not later than 2 years after the date of the conduct that is the subject of the complaint.

(3) Complaint Not Exclusive.—A complaint filed under this subsection is not an exclusive remedy and the filing of such a complaint does not waive any rights or remedies of the aggrieved party under this law or other laws.

(4) Decision and Remedies.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer failed to comply with the requirements of this division, the Immigra-
tion and Nationality Act (8 U.S.C. 1101 et seq.), or
the terms and conditions of employment, the Sec-
retary of Labor shall require payment of unpaid
wages, unpaid benefits, damages, and civil money
penalties. The Secretary is also authorized to impose
other administrative remedies, including disqualifica-
tion of the employer from utilizing the H–2B pro-
gram for a period of up to 5 years in the event of
willful or multiple material violations. The Secretary
is authorized to permanently disqualify an employer
from utilizing the H–2B program upon a subsequent
finding involving willful or multiple material viola-
tions.

(5) DISPOSITION OF PENALTIES.—To the ex-
tent provided in advance in appropriations Acts, civil
penalties collected under this subsection shall be
used by the Secretary of Labor for the administra-
tion and enforcement of the provisions of this sec-
tion.

(6) STATUTORY CONSTRUCTION.—Nothing in
this subsection may be construed as limiting the au-
 thority of the Secretary of Labor to conduct an in-
 vestigation in the absence of a complaint.

(7) RETALIATION PROHIBITED.—It is a viola-
tion of this subsection for any person to intimidate,
threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against, or to cause any person to intimidate, threaten, restrain, coerce, blacklist, or in any manner discriminate against, an employee, including a former employee or an applicant for employment, because the employee—

(A) has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of the immigration laws relating to the H–2B program, or any rule or regulation relating to such program;

(B) has filed a complaint concerning the employer’s compliance with the immigration laws relating to the H–2B program, or any rule or regulation relating to such program;

(C) cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the immigration laws relating to the H–2B program, or any rule or regulation relating to such program; or

(D) has taken steps to exercise or assert any right or protection under the provisions of this section, or any rule or regulation pertaining
to this section, or any other relevant Federal, State, or local law.

(c) INTERAGENCY COMMUNICATION.—The Secretary of Labor, in consultation with the Secretary of Homeland Security, Secretary of State and the Equal Employment Opportunity Commission, shall establish mechanisms by which the agencies and their components share information, including by public electronic means, regarding complaints, studies, investigations, findings and remedies regarding compliance by employers with the requirements of the H–2B program and other employment-related laws and regulations.

SEC. 1009. PROGRAM ELIGIBILITY.

(a) IN GENERAL.—A petition filed by an employer under subsection (c)(1) initially to grant an alien non-immigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), or to extend or change to such status, may be approved only for nationals of countries that the Secretary of Homeland Security has designated as participating countries, with the concurrence of the Secretary of State, in a notice published in the Federal Register, taking into account for each such country factors, including—
(1) the fraud rate relating to petitions under section 101(a)(15)(H)(ii) of such Act (8 U.S.C. 1101(a)(15)(H)(ii)) filed for by nationals of the country and visa applications under such section filed by nationals of the country;

(2) the denial rate of visa applications under such section 101(a)(15)(H)(ii) filed by nationals of the country;

(3) the overstay rate of nationals of the country who were admitted to the United States under such section 101(a)(15)(H)(ii);

(4) the number of nationals of the country who were admitted to the United States under such section 101(a)(15)(H)(ii) and who were reported by their employers to—

(A) have failed to report to work within 5 workdays of the employment start date on the petition or within 5 workdays of the date on which the worker is admitted into the United States pursuant to the petition, whichever is later; or

(B) have not reported for work for a period of 5 consecutive workdays without the consent of the employer;
(5) the number of final and unexecuted orders
of removal against citizens, subjects, nationals, and
residents of the country; and
(6) such other factors as may serve the United
States interest.

(b) LIMITATION.—A country may not be included on
the list described in subsection (a) if the country denies
or unreasonably delays the repatriation of aliens who are
subject to a final order of removal and who are citizens,
subjects, nationals or residents of that country.

(c) STATISTICS.—The Secretary of Homeland Secu-
rity shall include in the notice described in subsection (a),
for each country included in the list of participating coun-
tries, the statistics referenced in paragraphs (1) through
(5) of that subsection, if available, for the immediately
preceding fiscal year.

(d) NATIONAL FROM A COUNTRY NOT ON THE
LIST.—A national from a country not on the list described
in subsection (a) may be a beneficiary of an approved peti-
tion under such section 101(a)(15)(H)(ii) upon the re-
quest of a petitioner or potential petitioner, if the Sec-
retary of Homeland Security, in his sole and unreviewable
discretion, determines that it is in the United States inter-
est for that alien to be a beneficiary of such petition. De-
termination of such a United States interest will take into account factors, including but not limited to—

(1) evidence from the petitioner demonstrating that a worker with the required skills is not available from among foreign workers from a country currently on the list described in subsection (a);

(2) evidence that the beneficiary has been admitted to the United States previously in status under such section 101(a)(15)(H)(ii);

(3) the potential for abuse, fraud, or other harm to the integrity of the visa program under such section 101(a)(15)(H)(ii) through the potential admission of a beneficiary from a country not currently on the list; and

(4) such other factors as may serve the United States interest.

(e) DURATION.—Once published, any designation of participating countries pursuant to subsection (a) shall be effective for one year after the date of publication in the Federal Register and shall be without effect at the end of that one-year period.

SEC. 1010. H–2B EMPLOYER NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—An employer of one or more H–2B workers shall, within three business days, make elec-
tronic notification, in the manner prescribed by the Secretary of Homeland Security, of the following events:

(1) Such a worker fails to report to work within 5 workdays of the employment start date on the petition or within 5 workdays of the date on which the worker is admitted into the United States pursuant to the petition, whichever is later.

(2) The labor or services for which such a worker was hired is completed more than 30 days earlier than the employment end date stated on the petition.

(3) The employment of such a worker is terminated prior to the completion of labor or services for which he or she was hired.

(4) Such a worker has not reported for work for a period of 5 consecutive workdays without the consent of the employer.

(b) EVIDENCE.—An employer shall retain evidence of a notification described in subsection (a) and make it available for inspection by officers of the Department of Homeland Security for a 1-year period beginning on the date of the notification.

(e) PENALTY.—The Secretary shall impose civil monetary penalties, in an amount not less than $500 per violation and not to exceed $1,000 per violation, as the Sec-
retary determines to be appropriate, for each instance
where the employer cannot demonstrate that it has com-
plied with the notification requirements, unless, in the
case of an untimely notification, the employer dem-
onstrates with such notification that good cause existed
for the untimely notification, and the Secretary of Home-
land Security, in the Secretary’s discretion, waives such
penalty.

(d) Process.—If the Secretary has determined that
an employer has violated the notification requirements in
subsection (a), the employer shall be given written notice
and 30 days to reply before being given written notice of
the assessment of the penalty.

(e) Failure to Pay Penalty.—If a penalty de-
scribed in subsection (c) is not paid within 10 days of as-
sessment, no nonimmigrant or immigrant petition may be
processed for that employer, nor may that employer con-
tinue to employ nonimmigrants, until such penalty is paid.

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal
year 2022 and each fiscal year thereafter such sums as
may be necessary for the purposes of—

(1) recruiting United States workers for labor
or services which might otherwise be performed by
H–2B workers, including by ensuring that State
workforce agencies are sufficiently funded to fulfill their functions under the H–2B program;

(2) enabling the Secretary of Labor to make determinations and certifications under the H–2B program in accordance with this division and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including the operation of the publicly-accessible online job registry and database of job orders described in section 1005(b) of this division; and

(3) monitoring the terms and conditions under which H–2B workers (and United States workers employed by the same employers) are employed in the United States.

DIVISION D—AMERICAN AGRICULTURE DOMINANCE ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “American Agriculture Dominance Act”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Status for Certified Agricultural Workers

Sec. 101. Certified agricultural worker status.
Sec. 102. Terms and conditions of certified status.
Sec. 103. Extensions of certified status.
Sec. 104. Determination of continuous presence.
Sec. 105. Employer obligations.
Sec. 106. Administrative and judicial review.
Subtitle B—Optional Earned Residence for Long-Term Workers

Sec. 111. Optional adjustment of status for long-term agricultural workers.
Sec. 112. Payment of taxes.
Sec. 113. Adjudication and decision; review.

Subtitle C—General Provisions

Sec. 121. Definitions.
Sec. 122. Rulemaking; Fees.
Sec. 123. Background checks.
Sec. 124. Protection for children.
Sec. 125. Limitation on removal.
Sec. 126. Documentation of agricultural work history.
Sec. 127. Employer protections.
Sec. 128. Correction of social security records; conforming amendments.
Sec. 129. Disclosures and privacy.
Sec. 130. Penalties for false statements in applications.
Sec. 131. Dissemination of information.
Sec. 132. Exemption from numerical limitations.
Sec. 133. Reports to Congress.
Sec. 134. Grant program to assist eligible applicants.
Sec. 135. Authorization of appropriations.

TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR THE FUTURE

Subtitle A—Reforming the H–2A Worker Program

Sec. 201. Comprehensive and streamlined electronic H–2A platform.
Sec. 202. Agricultural labor or services.
Sec. 203. H–2A program requirements.
Sec. 204. Portable H–2A visa pilot program.

1 TITLE I—SECURING THE DOMESTIC AGRICULTURAL WORKFORCE

Subtitle A—Status for Certified Agricultural Workers

SEC. 101. CERTIFIED AGRICULTURAL WORKER STATUS.

(a) REQUIREMENTS FOR CERTIFIED AGRICULTURAL WORKER STATUS.—

(1) PRINCIPAL ALIENS.—The Secretary may grant certified agricultural worker status to an alien who submits a completed application, including the
required processing fees, before the end of the period set forth in subsection (c) and who—

(A) performed agricultural labor or services in the United States for at least 1,035 hours (or 180 work days) during the 2-year period preceding the date of the introduction of this Act;

(B) on the date of the introduction of this Act—

(i) is inadmissible or deportable from the United States; or

(ii) is under a grant of deferred enforced departure or has temporary protected status under section 244 of the Immigration and Nationality Act;

(C) subject to section 104, has been continuously present in the United States since the date of the introduction of this Act and until the date on which the alien is granted certified agricultural worker status; and

(D) is not otherwise ineligible for certified agricultural worker status as provided in subsection (b).

(2) DEPENDENT SPOUSE AND CHILDREN.—The Secretary may grant certified agricultural dependent
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status to the spouse or child of an alien granted cer-
tified agricultural worker status under paragraph
(1) if the spouse or child is not ineligible for cer-
tified agricultural dependent status as provided in
subsection (b).

(b) GROUNDS FOR INELIGIBILITY.—

(1) GROUNDS OF INADMISSIBILITY.—Except as
provided in paragraph (3), an alien is ineligible for
certified agricultural worker or certified agricultural
dependent status if the Secretary determines that
the alien is inadmissible under section 212(a) of the
Immigration and Nationality Act (8 U.S.C.
1182(a)), except that in determining inadmis-
sibility—

(A) paragraphs (4), (5), (7), and (9)(B) of
such section shall not apply;

(B) subparagraphs (A), (C), (D), (F), and
(G) of such section 212(a)(6) and paragraphs
(9)(C) and (10)(B) of such section 212(a) shall
not apply unless based on the act of unlawfully
entering the United States after the date of in-
troduction of this Act; and

(C) paragraphs (6)(B) and (9)(A) of such
section 212(a) shall not apply unless the rel-
evant conduct began on or after the date of fil-
ing of the application for certified agricultural worker status.

(2) ADDITIONAL CRIMINAL BARS.—Except as provided in paragraph (3), an alien is ineligible for certified agricultural worker or certified agricultural dependent status if the Secretary determines that, excluding any offense under State law for which an essential element is the alien’s immigration status and any minor traffic offense, the alien has been convicted of—

(A) any felony offense;

(B) an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) at the time of the conviction);

(C) two misdemeanor offenses involving moral turpitude, as described in section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)), unless an offense is waived by the Secretary under paragraph (3)(B); or

(D) three or more misdemeanor offenses not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct.
(3) WAIVERS FOR CERTAIN GROUNDS OF INADMISSIBILITY.—For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may waive the grounds of inadmissibility under—

(A) paragraph (1), (6)(E), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(B) subparagraphs (A) and (D) of section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)), unless inadmissibility is based on a conviction that would otherwise render the alien ineligible under subparagraph (A), (B), or (D) of paragraph (2).

(c) APPLICATION.—

(1) APPLICATION PERIOD.—Except as provided in paragraph (2), the Secretary shall accept initial applications for certified agricultural worker status during the 18-month period beginning on the date on which the interim final rule is published in the Federal Register pursuant to section 122(a).

(2) EXTENSION.—If the Secretary determines, during the initial period described in paragraph (1), that additional time is required to process initial applications for certified agricultural worker status or
for other good cause, the Secretary may extend the
period for accepting applications for up to an addi-
tional 12 months.

(3) Submission of Applications.—

(A) In general.—An alien may file an
application with the Secretary under this sec-
tion with the assistance of an attorney or a
nonprofit religious, charitable, social service, or
similar organization recognized by the Board of
Immigration Appeals under section 292.2 of
title 8, Code of Federal Regulations. The Sec-
retary shall also create a procedure for accept-
ing applications filed by qualified designated en-
tities with the consent of the applicant.

(B) Farm Service Agency Offices.—
The Secretary, in consultation with the Sec-
retary of Agriculture, shall establish a process
for the filing of applications under this section
at Farm Service Agency offices throughout the
United States.

(4) Evidence of Application Filing.—As
soon as practicable after receiving an application for
certified agricultural worker status, the Secretary
shall provide the applicant with a document acknowl-
edging the receipt of such application. Such docu-
ment shall serve as interim proof of the alien’s au-

thorization to accept employment in the United

States and shall be accepted by an employer as evi-
dence of employment authorization under section

274A(b)(1)(C) of the Immigration and Nationality

Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is

employing the holder of such document to perform

agricultural labor or services, pending a final admin-

istrative decision on the application.

(5) EFFECT OF PENDING APPLICATION.—Dur-

ing the period beginning on the date on which an

alien applies for certified agricultural worker status

under this subtitle, and ending on the date on which

the Secretary makes a final administrative decision

regarding such application, the alien and any de-

pendents included in the application—

(A) may apply for advance parole, which

shall be granted upon demonstrating a legiti-
mate need to travel outside the United States

for a temporary purpose;

(B) may not be detained by the Secretary

or removed from the United States unless the

Secretary makes a prima facie determination

that such alien is, or has become, ineligible for

certified agricultural worker status;
(C) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(6) WITHDRAWAL OF APPLICATION.—The Secretary shall, upon receipt of a request from the applicant to withdraw an application for certified agricultural worker status under this subtitle, cease processing of the application, and close the case. Withdrawal of the application shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(d) ADJUDICATION AND DECISION.—

(1) IN GENERAL.—Subject to section 123, the Secretary shall render a decision on an application for certified agricultural worker status not later than 180 days after the date the application is filed.
(2) NOTICE.—Prior to denying an application for certified agricultural worker status, the Secretary shall provide the alien with—

(A) written notice that describes the basis for ineligibility or the deficiencies in the evidence submitted; and

(B) at least 90 days to contest ineligibility or submit additional evidence.

(3) AMENDED APPLICATION.—An alien whose application for certified agricultural worker status is denied under this section may submit an amended application for such status to the Secretary if the amended application is submitted within the application period described in subsection (e) and contains all the required information and fees that were missing from the initial application.

(e) ALTERNATIVE H–2A STATUS.—An alien who has not met the required period of agricultural labor or services under subsection (a)(1)(A), but is otherwise eligible for certified agricultural worker status under such subsection, shall be eligible for classification as a non-immigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) upon approval of a petition submitted by a sponsoring employer, if the alien has per-
formed at least 575 hours (or 100 work days) of agricultural labor or services during the 3-year period preceding the date of the introduction of this Act. The Secretary shall create a procedure to provide for such classification without requiring the alien to depart the United States and obtain a visa abroad.

SEC. 102. TERMS AND CONDITIONS OF CERTIFIED STATUS.

(a) IN GENERAL.—

(1) APPROVAL.—Upon approval of an application for certified agricultural worker status, or an extension of such status pursuant to section 103, the Secretary shall issue—

(A) documentary evidence of such status to the applicant; and

(B) documentary evidence of certified agricultural dependent status to any qualified dependent included on such application.

(2) DOCUMENTARY EVIDENCE.—In addition to any other features and information as the Secretary may prescribe, the documentary evidence described in paragraph (1)—

(A) shall be machine-readable and tamper-resistant;

(B) shall contain a digitized photograph;
(C) shall serve as a valid travel and entry
document for purposes of applying for admis-
sion to the United States; and

(D) shall be accepted during the period of
its validity by an employer as evidence of em-
ployment authorization and identity under sec-
tion 274A(b)(1)(B) of the Immigration and Na-
tionality Act (8 U.S.C. 1324a(b)(1)(B)).

(3) VALIDITY PERIOD.—Certified agricultural
worker and certified agricultural dependent status
shall be valid for 5½ years beginning on the date of
approval.

(4) TRAVEL AUTHORIZATION.—An alien with
certified agricultural worker or certified agricultural
dependent status may—

(A) travel within and outside of the United
States, including commuting to the United
States from a residence in a foreign country;
and

(B) be admitted to the United States upon
return from travel abroad without first obtain-
ing a visa if the alien is in possession of—

(i) valid, unexpired documentary evi-
dence of certified agricultural worker or
certified agricultural worker dependent status as described in subsection (a); or

(ii) a travel document that has been approved by the Secretary and was issued to the alien after the alien’s original documentary evidence was lost, stolen, or destroyed.

(b) Ability To Change Status.—

(1) Change to Certified Agricultural Worker Status.—Notwithstanding section 101(a), an alien with valid certified agricultural dependent status may apply to change to certified agricultural worker status, at any time, if the alien—

(A) submits a completed application, including the required processing fees; and

(B) is not ineligible for certified agricultural worker status under section 101(b).

(2) Clarification.—Nothing in this title prohibits an alien granted certified agricultural worker or certified agricultural dependent status from changing status to any other nonimmigrant classification for which the alien may be eligible.

(e) Prohibition on Public Benefits, Tax Benefits, and Health Care Subsidies.—Aliens granted certified agricultural worker or certified agricultural de-
pendent status shall be considered lawfully present in the
United States for all purposes for the duration of their
status, except that such aliens—

(1) shall be ineligible for Federal means-tested
public benefits to the same extent as other individ-
uals who are not qualified aliens under section 431
of the Personal Responsibility and Work Oppor-
tunity Reconciliation Act of 1996 (8 U.S.C. 1641);

(2) are not entitled to the premium assistance
tax credit authorized under section 36B of the Inter-
nal Revenue Code of 1986 (26 U.S.C. 36B), and
shall be subject to the rules applicable to individuals
who are not lawfully present set forth in subsection
(e) of such section;

(3) shall be subject to the rules applicable to in-
dividuals who are not lawfully present set forth in
section 1402(e) of the Patient Protection and Af-
fordable Care Act (42 U.S.C. 18071(e)); and

(4) shall be subject to the rules applicable to in-
dividuals not lawfully present set forth in section
5000A(d)(3) of the Internal Revenue Code of 1986
(26 U.S.C. 5000A(d)(3)).

(d) REVOCATION OF STATUS.—

(1) IN GENERAL.—The Secretary may revoke
certified agricultural worker or certified agricultural
dependent status if, after providing notice to the alien and the opportunity to provide evidence to contest the proposed revocation, the Secretary determines that the alien no longer meets the eligibility requirements for such status under section 101(b).

(2) INVALIDATION OF DOCUMENTATION.—Upon the Secretary’s final determination to revoke an alien’s certified agricultural worker or certified agricultural dependent status, any documentation issued by the Secretary to such alien under subsection (a) shall automatically be rendered invalid for any purpose except for departure from the United States.

SEC. 103. EXTENSIONS OF CERTIFIED STATUS.

(a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

(1) PRINCIPAL ALIENS.—The Secretary may extend certified agricultural worker status for additional periods of 5½ years to an alien who submits a completed application, including the required processing fees, within the 120-day period beginning 60 days before the expiration of the fifth year of the immediately preceding grant of certified agricultural worker status, if the alien—

(A) except as provided in section 126(e), has performed agricultural labor or services in the United States for at least 575 hours (or
100 work days) for each of the prior 5 years in which the alien held certified agricultural worker status; and

(B) has not become ineligible for certified agricultural worker status under section 101(b).

(2) DEPENDENT SPOUSE AND CHILDREN.—The Secretary may grant or extend certified agricultural dependent status to the spouse or child of an alien granted an extension of certified agricultural worker status under paragraph (1) if the spouse or child is not ineligible for certified agricultural dependent status under section 101(b).

(3) WAIVER FOR LATE FILINGS.—The Secretary may waive an alien’s failure to timely file before the expiration of the 120-day period described in paragraph (1) if the alien demonstrates that the delay was due to extraordinary circumstances beyond the alien’s control or for other good cause.

(b) STATUS FOR WORKERS WITH PENDING APPLICATIONS.—

(1) IN GENERAL.—Certified agricultural worker status of an alien who timely files an application to extend such status under subsection (a) (and the status of the alien’s dependents) shall be automatically extended through the date on which the Sec-
retary makes a final administrative decision regarding such application.

(2) DOCUMENTATION OF EMPLOYMENT AUTHORIZATION.—As soon as practicable after receipt of an application to extend certified agricultural worker status under subsection (a), the Secretary shall issue a document to the alien acknowledging the receipt of such application. An employer of the worker may not refuse to accept such document as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(C)), pending a final administrative decision on the application.

(e) NOTICE.—Prior to denying an application to extend certified agricultural worker status, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

SEC. 104. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—The continuous presence in the United States of an applicant for certified agricultural worker status under section 101 shall
not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain continuous presence in the United States under this subtitle if the alien departed the United States for any period exceeding 90 days, or for any periods, in the aggregate, exceeding 180 days.

(2) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien’s control, including the serious illness of the alien, or death or serious illness of a spouse, parent, son or daughter, grandparent, or sibling of the alien.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary shall not be counted toward any period of de-
parture from the United States under paragraph (1).

SEC. 105. EMPLOYER OBLIGATIONS.

(a) RECORD OF EMPLOYMENT.—An employer of an alien in certified agricultural worker status shall provide such alien with a written record of employment each year during which the alien provides agricultural labor or services to such employer as a certified agricultural worker.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—If the Secretary determines, after notice and an opportunity for a hearing, that an employer of an alien with certified agricultural worker status has knowingly failed to provide the record of employment required under subsection (a), or has provided a false statement of material fact in such a record, the employer shall be subject to a civil penalty in an amount not to exceed $500 per violation.

(2) LIMITATION.—The penalty under paragraph (1) for failure to provide employment records shall not apply unless the alien has provided the employer with evidence of employment authorization described in section 102 or 103.

(3) DEPOSIT OF CIVIL PENALTIES.—Civil penalties collected under this paragraph shall be depos-
lit into the Immigration Examinations Fee Account under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)).

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for certified agricultural worker status under this subtitle, an application to extend such status, or a revocation of such status.

(b) ADMISSIBILITY IN IMMIGRATION COURT.—Each record of an alien’s application for certified agricultural worker status under this subtitle, application to extend such status, revocation of such status, and each record created pursuant to the administrative review process under subsection (a) is admissible in immigration court, and shall be included in the administrative record.

(c) JUDICIAL REVIEW.—Notwithstanding any other provision of law, judicial review of the Secretary’s decision to deny an application for certified agricultural worker status, an application to extend such status, or the decision to revoke such status, shall be limited to the review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).
Subtitle B—Optional Earned Residence for Long-Term Workers

SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-TERM AGRICULTURAL WORKERS.

(a) Requirements for Adjustment of Status.—

(1) Principal Aliens.—The Secretary may adjust the status of an alien from that of a certified agricultural worker to that of a lawful permanent resident if the alien submits a completed application, including the required processing and penalty fees, and the Secretary determines that—

(A) except as provided in section 126(c), the alien performed agricultural labor or services for not less than 575 hours (or 100 work days) each year—

(i) for at least 10 years prior to the date of the enactment of this Act and for at least 4 years in certified agricultural worker status; or

(ii) for fewer than 10 years prior to the date of the enactment of this Act and for at least 8 years in certified agricultural worker status; and
(B) the alien has not become ineligible for certified agricultural worker status under section 101(b).

(2) DEPENDENT ALIENS.—

(A) IN GENERAL.—The spouse and each child of an alien described in paragraph (1) whose status has been adjusted to that of a lawful permanent resident may be granted lawful permanent residence under this subtitle if—

(i) the qualifying relationship to the principal alien existed on the date on which such alien was granted adjustment of status under this subtitle; and

(ii) the spouse or child is not ineligible for certified agricultural worker dependent status under section 101(b).

(B) PROTECTIONS FOR SPOUSES AND CHILDREN.—The Secretary of Homeland Security shall establish procedures to allow the spouse or child of a certified agricultural worker to self-petition for lawful permanent residence under this subtitle in cases involving—

(i) the death of the certified agricultural worker, so long as the spouse or child
submits a petition not later than 2 years
after the date of the worker’s death; or

(ii) the spouse or a child being bat-
tered or subjected to extreme cruelty by
the certified agricultural worker.

(3) DOCUMENTATION OF WORK HISTORY.—An
applicant for adjustment of status under this section
shall not be required to resubmit evidence of work
history that has been previously submitted to the
Secretary in connection with an approved extension
of certified agricultural worker status.

(b) PENALTY FEE.—In addition to any processing
fee that the Secretary may assess in accordance with sec-
tion 122(b), a principal alien seeking adjustment of status
under this subtitle shall pay a $1,000 penalty fee, which
shall be deposited into the Immigration Examinations Fee
Account pursuant to section 286(m) of the Immigration
and Nationality Act (8 U.S.C. 1356(m)).

(c) EFFECT OF PENDING APPLICATION.—During the
period beginning on the date on which an alien applies
for adjustment of status under this subtitle, and ending
on the date on which the Secretary makes a final adminis-
trative decision regarding such application, the alien and
any dependents included on the application—
(1) may apply for advance parole, which shall be granted upon demonstrating a legitimate need to travel outside the United States for a temporary purpose;

(2) may not be detained by the Secretary or removed from the United States unless the Secretary makes a prima facie determination that such alien is, or has become, ineligible for adjustment of status under subsection (a);

(3) may not be considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

(4) may not be considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))).

(d) Evidence of Application Filing.—As soon as practicable after receiving an application for adjustment of status under this subtitle, the Secretary shall provide the applicant with a document acknowledging the receipt of such application. Such document shall serve as interim proof of the alien’s authorization to accept employment in the United States and shall be accepted by an employer as evidence of employment authorization under section 274A(b)(1)(C) of the Immigration and Nationality Act (8
U.S.C. 1324a(b)(1)(C)), pending a final administrative
decision on the application.

(c) WITHDRAWAL OF APPLICATION.—The Secretary
shall, upon receipt of a request to withdraw an application
for adjustment of status under this subtitle, cease proc-
essing of the application, and close the case. Withdrawal
of the application shall not prejudice any future applica-
tion filed by the applicant for any immigration benefit
under this Act or under the Immigration and Nationality
Act (8 U.S.C. 1101 et seq.).

SEC. 112. PAYMENT OF TAXES.

(a) IN GENERAL.—An alien may not be granted ad-
justment of status under this subtitle unless the applicant
has satisfied any applicable Federal tax liability.

(b) COMPLIANCE.—An alien may demonstrate com-
pliance with subsection (a) by submitting such documenta-
tion as the Secretary, in consultation with the Secretary
of the Treasury, may require by regulation.

SEC. 113. ADJUDICATION AND DECISION; REVIEW.

(a) IN GENERAL.—Subject to the requirements of
section 123, the Secretary shall render a decision on an
application for adjustment of status under this subtitle not
later than 180 days after the date on which the application
is filed.
(b) NOTICE.—Prior to denying an application for adjustment of status under this subtitle, the Secretary shall provide the alien with—

(1) written notice that describes the basis for ineligibility or the deficiencies of the evidence submitted; and

(2) at least 90 days to contest ineligibility or submit additional evidence.

(e) ADMINISTRATIVE REVIEW.—The Secretary shall establish a process by which an applicant may seek administrative review of a denial of an application for adjustment of status under this subtitle.

(d) JUDICIAL REVIEW.—Notwithstanding any other provision of law, an alien may seek judicial review of a denial of an application for adjustment of status under this title in an appropriate United States district court.

Subtitle C—General Provisions

SEC. 121. DEFINITIONS.

In this title:

(1) IN GENERAL.—Except as otherwise provided, any term used in this title that is used in the immigration laws shall have the meaning given such term in the immigration laws (as such term is defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).
(2) Agricultural labor or services.—The term “agricultural labor or services” has the meaning given such term in section 101(a)(53) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(53)).

(3) Applicable Federal tax liability.—The term “applicable Federal tax liability” means all Federal income taxes assessed in accordance with section 6203 of the Internal Revenue Code of 1986 beginning on the date on which the applicant was authorized to work in the United States as a certified agricultural worker.

(4) Appropriate United States district court.—The term “appropriate United States district court” means the United States District Court for the District of Columbia or the United States district court with jurisdiction over the alien’s principal place of residence.

(5) Child.—The term “child” has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(6) Convicted or conviction.—The term “convicted” or “conviction” does not include a judgment that has been expunged or set aside, that re-
sulted in a rehabilitative disposition, or the equiva-

tent.

(7) EMPLOYER.—The term “employer” means
any person or entity, including any labor contractor
or any agricultural association, that employs workers
in agricultural labor or services.

(8) QUALIFIED DESIGNATED ENTITY.—The
term “qualified designated entity” means—

(A) a qualified farm labor organization or
an association of employers designated by the
Secretary; or

(B) any other entity that the Secretary
designates as having substantial experience,
demonstrated competence, and a history of
long-term involvement in the preparation and
submission of application for adjustment of sta-
tus under title II of the Immigration and Na-
tionality Act (8 U.S.C. 1151 et seq.).

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

(10) WORK DAY.—The term “work day” means
any day in which the individual is employed 5.75 or
more hours in agricultural labor or services.
SEC. 122. RULEMAKING; FEES.

(a) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, an interim final rule implementing this title. Notwithstanding section 553 of title 5, United States Code, the rule shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for comment. The Secretary shall finalize such rule not later than 1 year after the date of the enactment of this Act.

(b) FEES.—

(1) IN GENERAL.—The Secretary may require an alien applying for any benefit under this title to pay a reasonable fee that is commensurate with the cost of processing the application.

(2) FEE WAIVER; INSTALLMENTS.—

(A) IN GENERAL.—The Secretary shall establish procedures to allow an alien to—

(i) request a waiver of any fee that the Secretary may assess under this title if the alien demonstrates to the satisfaction of the Secretary that the alien is unable to pay the prescribed fee; or
(ii) pay any fee or penalty that the Secretary may assess under this title in installments.

(B) CLARIFICATION.—Nothing in this section shall be read to prohibit an employer from paying any fee or penalty that the Secretary may assess under this title on behalf of an alien and the alien’s spouse or children.

SEC. 123. BACKGROUND CHECKS.

(a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant or extend certified agricultural worker or certified agricultural dependent status under subtitle A, or grant adjustment of status to that of a lawful permanent resident under subtitle B, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who cannot provide all required biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for status under this
title. An alien may not be granted any such status under this title unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

SEC. 124. PROTECTION FOR CHILDREN.

(a) IN GENERAL.—Except as provided in subsection (b), for purposes of eligibility for certified agricultural dependent status or lawful permanent resident status under this title, a determination of whether an alien is a child shall be made using the age of the alien on the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

(b) LIMITATION.—Subsection (a) shall apply for no more than 10 years after the date on which the initial application for certified agricultural worker status is filed with the Secretary of Homeland Security.

SEC. 125. LIMITATION ON REMOVAL.

(a) IN GENERAL.—An alien who appears to be prima facie eligible for status under this title shall be given a reasonable opportunity to apply for such status. Such an alien may not be placed in removal proceedings or removed from the United States until a final administrative decision establishing ineligibility for such status is rendered.

(b) ALIENS IN REMOVAL PROCEEDINGS.—Notwithstanding any other provision of the law, the Attorney Gen-
eral shall (upon motion by the Secretary with the consent of the alien, or motion by the alien) terminate removal proceedings, without prejudice, against an alien who appears to be prima facie eligible for status under this title, and provide such alien a reasonable opportunity to apply for such status.

(c) EFFECT OF FINAL ORDER.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for status under this title. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall notify the Attorney General of such approval, and the Attorney General shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(d) EFFECT OF DEPARTURE.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien who departs the United States—
(1) with advance permission to return to the United States granted by the Secretary under this title; or

(2) after having been granted certified agricultural worker status or lawful permanent resident status under this title.

SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HISTORY.

(a) BURDEN OF PROOF.—An alien applying for certified agricultural worker status under subtitle A or adjustment of status under subtitle B has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101, 103, or 111, as applicable. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(b) EVIDENCE.—An alien may meet the burden of proof under subsection (a) by producing sufficient evidence to show the extent of such employment as a matter of just and reasonable inference. Such evidence may include—

(1) an annual record of certified agricultural worker employment as described in section 105(a), or other employment records from employers;
(2) employment records maintained by collective bargaining associations;

(3) tax records or other government records;

(4) sworn affidavits from individuals who have direct knowledge of the alien’s work history; or

(5) any other documentation designated by the Secretary for such purpose.

(c) Exceptions for extraordinary circumstances.—

(1) Impact of COVID–19.—

(A) In general.—The Secretary may grant certified agricultural worker status to an alien who is otherwise eligible for such status if such alien is able to only partially satisfy the requirement under section 101(a)(1)(A) as a result of reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19.

(B) Limitation.—The exception described in subparagraph (A) shall apply only to agricultural labor or services required to be performed during the period that—
(i) begins on the first day of the public health emergency described in subparagraph (A); and

(ii) ends 90 days after the date on which such public health emergency terminates.

(2) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under section 103(a)(1)(A) or 111(a)(1)(A), the Secretary may credit the alien with not more than 575 hours (or 100 work days) of agricultural labor or services in the United States if the alien was unable to perform the required agricultural labor or services due to—

(A) pregnancy, parental leave, illness, disease, disabling injury, or physical limitation of the alien;

(B) injury, illness, disease, or other special needs of the alien’s child or spouse;

(C) severe weather conditions that prevented the alien from engaging in agricultural labor or services;

(D) reduced hours of employment or other restrictions associated with the public health emergency declared by the Secretary of Health
and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) with respect to COVID–19; or

(E) termination from agricultural employment, if the Secretary determines that—

(i) the termination was without just cause; and

(ii) the alien was unable to find alternative agricultural employment after a reasonable job search.

(3) EFFECT OF DETERMINATION.—A determination under paragraph (1)(E) shall not be conclusive, binding, or admissible in a separate or subsequent judicial or administrative action or proceeding between the alien and a current or prior employer of the alien or any other party.

(4) HARDSHIP WAIVER.—

(A) IN GENERAL.—As part of the rule-making described in section 122(a), the Secretary shall establish procedures allowing for a partial waiver of the requirement under section 111(a)(1)(A) for a certified agricultural worker if such worker—
(i) has continuously maintained certified agricultural worker status since the date such status was initially granted;

(ii) has partially completed the requirement under section 111(a)(1)(A); and

(iii) is no longer able to engage in agricultural labor or services safely and effectively because of—

(I) a permanent disability suffered while engaging in agricultural labor or services; or

(II) deteriorating health or physical ability combined with advanced age.

(B) DISABILITY.—In establishing the procedures described in subparagraph (A), the Secretary shall consult with the Secretary of Health and Human Services and the Commissioner of Social Security to define “permanent disability” for purposes of a waiver under subparagraph (A)(iii)(I).

SEC. 127. EMPLOYER PROTECTIONS.

(a) CONTINUING EMPLOYMENT.—An employer that continues to employ an alien knowing that the alien intends to apply for certified agricultural worker status
under subtitle A shall not violate section 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(2)) by continuing to employ the alien for the duration of the application period under section 101(c), and with respect to an alien who applies for certified agricultural status, for the duration of the period during which the alien’s application is pending final determination.

(b) Use of Employment Records.—Copies of employment records or other evidence of employment provided by an alien or by an alien’s employer in support of an alien’s application for certified agricultural worker or adjustment of status under this title may not be used in a civil or criminal prosecution or investigation of that employer under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) or the Internal Revenue Code of 1986 for the prior unlawful employment of that alien regardless of the outcome of such application.

(c) Additional Protections.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment in support of an application for certified agricultural worker status or adjustment of status under this title shall not be subject to civil and criminal liability pursuant to such section 274A for employing such unauthorized aliens. Records or other evidence of employment provided by employers in response
to a request for such records for the purpose of establishing eligibility for status under this title may not be used for any purpose other than establishing such eligibility.

(d) LIMITATION ON PROTECTION.—The protections for employers under this section shall not apply if the employer provides employment records to the alien that are determined to be fraudulent.

SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS; CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking “or” at the end;

(2) in subparagraph (C), by inserting “or” at the end;

(3) by inserting after subparagraph (C) the following:

“(D) who is granted certified agricultural worker status, certified agricultural dependent status, or lawful permanent resident status under title I of the American Agriculture Dominance Act,”; and

(4) in the undesignated matter following subparagraph (D), as added by paragraph (3), by striking “1990.” and inserting “1990, or in the case of
an alien described in subparagraph (D), if such con-
duct is alleged to have occurred before the date on
which the alien was granted status under title I of
the American Agriculture Dominance Act.”

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) shall take effect on the first day of the sev-
enth month that begins after the date of the enactment
of this Act.

c) CONFORMING AMENDMENTS.—

(1) SOCIAL SECURITY ACT.—Section 210(a)(1)
of the Social Security Act (42 U.S.C. 410(a)(1)) is
amended by inserting before the semicolon the fol-
lowing: “(other than aliens granted certified agricul-
tural worker status or certified agricultural depend-
ent status under title I of the American Agriculture
Dominance Act”.

(2) INTERNAL REVENUE CODE OF 1986.—Sec-
tion 3121(b)(1) of the Internal Revenue Code of
1986 is amended by inserting before the semicolon
the following: “(other than aliens granted certified
agricultural worker status or certified agricultural
dependent status under title I of the American Agri-
culture Dominance Act”.

(3) EFFECTIVE DATE.—The amendments made
by this subsection shall apply with respect to service
performed after the date of the enactment of this Act.

(d) Automated System To Assign Social Security Account Numbers.—Section 205(c)(2)(B) of the Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended by adding at the end the following:

“(iv) The Commissioner of Social Security shall, to the extent practicable, coordinate with the Secretary of the Department of Homeland Security to implement an automated system for the Commissioner to assign social security account numbers to aliens granted certified agricultural worker status or certified agricultural dependent status under title I of the American Agriculture Dominance Act. An alien who is granted such status, and who was not previously assigned a social security account number, shall request assignment of a social security account number and a social security card from the Commissioner through such system. The Secretary shall collect and provide to the Commissioner such information as the Commissioner deems necessary for the Commissioner to
assign a social security account number, which information may be used by the Commissioner for any purpose for which the Commissioner is otherwise authorized under Federal law. The Commissioner may maintain, use, and disclose such information only as permitted by the Privacy Act and other Federal law.”.

**SEC. 129. DISCLOSURES AND PRIVACY.**

(a) **IN GENERAL.**—The Secretary may not disclose or use information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review) for the purpose of immigration enforcement.

(b) **REFERRALS PROHIBITED.**—The Secretary, based solely on information provided in an application for certified agricultural worker status or adjustment of status under this title (including information provided during administrative or judicial review), may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) **EXCEPTIONS.**—Notwithstanding subsections (a) and (b), information provided in an application for cer-
tified agricultural worker status or adjustment of status
under this title may be shared with Federal security and
law enforcement agencies—

(1) for assistance in the consideration of an ap-
lication under this title;

(2) to identify or prevent fraudulent claims or
schemes;

(3) for national security purposes; or

(4) for the investigation or prosecution of any
felony not related to immigration status.

(d) PENALTY.—Any person who knowingly uses, pub-
lishes, or permits information to be examined in violation
of this section shall be fined not more than $10,000.

(e) PRIVACY.—The Secretary shall ensure that ap-
propriate administrative and physical safeguards are in
place to protect the security, confidentiality, and integrity
of personally identifiable information collected, main-
tained, and disseminated pursuant to this title.

SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-
TIONS.

(a) CRIMINAL PENALTY.—Any person who—

(1) files an application for certified agricultural
worker status or adjustment of status under this
title and knowingly falsifies, conceals, or covers up
a material fact or makes any false, fictitious, or
fraudulent statements or representations, or makes
or uses any false writing or document knowing the
same to contain any false, fictitious, or fraudulent
statement or entry; or

   (2) creates or supplies a false writing or docu-
   ment for use in making such an application,

shall be fined in accordance with title 18, United States
Code, imprisoned not more than 5 years, or both.

   (b) INADMISSIBILITY.—An alien who is convicted
under subsection (a) shall be deemed inadmissible to the
United States under section 212(a)(6)(C)(i) of the Immi-
gration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

   (c) DEPOSIT.—Fines collected under subsection (a)
shall be deposited into the Immigration Examinations Fee
Account pursuant to section 286(m) of the Immigration
and Nationality Act (8 U.S.C. 1356(m)).

SEC. 131. DISSEMINATION OF INFORMATION.

   (a) IN GENERAL.—Beginning not later than the first
day of the application period described in section 101(c)—

   (1) the Secretary of Homeland Security, in co-
operation with qualified designated entities, shall
broadly disseminate information described in sub-
section (b); and

   (2) the Secretary of Agriculture, in consultation
with the Secretary of Homeland Security, shall dis-
seminate to agricultural employers a document containing the information described in subsection (b) for posting at employer worksites.

(b) INFORMATION DESCRIBED.—The information described in this subsection shall include—

(1) the benefits that aliens may receive under this title; and

(2) the requirements that an alien must meet to receive such benefits.

SEC. 132. EXEMPTION FROM NUMERICAL LIMITATIONS.

The numerical limitations under title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) shall not apply to the adjustment of aliens to lawful permanent resident status under this title, and such aliens shall not be counted toward any such numerical limitation.

SEC. 133. REPORTS TO CONGRESS.

Not later than 180 days after the publication of the final rule under section 122(a), and annually thereafter for the following 10 years, the Secretary shall submit a report to Congress that identifies, for the previous fiscal year—

(1) the number of principal aliens who applied for certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;
(2) the number of principal aliens who were granted certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status;

(3) the number of principal aliens who applied for an extension of their certified agricultural worker status under subtitle A, and the number of dependent spouses and children included in such applications;

(4) the number of principal aliens who were granted an extension of certified agricultural worker status under subtitle A, and the number of dependent spouses and children who were granted certified agricultural dependent status under such an extension;

(5) the number of principal aliens who applied for adjustment of status under subtitle B, and the number of dependent spouses and children included in such applications;

(6) the number of principal aliens who were granted lawful permanent resident status under subtitle B, and the number of spouses and children who were granted such status as dependents;
(7) the number of principal aliens included in petitions described in section 101(e), and the number of dependent spouses and children included in such applications; and

(8) the number of principal aliens who were granted H–2A status pursuant to petitions described in section 101(e), and the number of dependent spouses and children who were granted H–4 status.

SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) Establishment.—The Secretary shall establish a program to award grants, on a competitive basis, to eligible nonprofit organizations to assist eligible applicants under this title by providing them with the services described in subsection (c).

(b) Eligible Nonprofit Organization.—For purposes of this section, the term “eligible nonprofit organization” means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (excluding a recipient of funds under title X of the Economic Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that has demonstrated qualifications, experience, and expertise in providing quality services to farm workers or aliens.
(c) Use of Funds.—Grant funds awarded under this section may be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of certified agricultural worker status authorized under this title; and

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for certified agricultural worker status or adjustment of status under this title, including—

(A) screening prospective applicants to assess their eligibility for such status;

(B) completing applications, including providing assistance in obtaining necessary documents and supporting evidence; and

(C) providing any other assistance that the Secretary determines useful to assist aliens in applying for certified agricultural worker status or adjustment of status under this title.

(d) Source of Funds.—In addition to any funds appropriated to carry out this section, the Secretary may use up to $10,000,000 from the Immigration Examinations Fee Account under section 286(m) of the Immigra-
tion and Nationality Act (8 U.S.C. 1356(m)) to carry out
this section.

(e) ELIGIBILITY FOR SERVICES.—Section 504(a)(11)
of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall
not be construed to prevent a recipient of funds under title
X of the Economic Opportunity Act of 1964 (42 U.S.C.
2996 et seq.) from providing legal assistance directly re-
lated to an application for status under this title or to
an alien granted such status.

SEC. 135. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Sec-
retary, such sums as may be necessary to implement this
title, including any amounts needed for costs associated
with the initiation of such implementation, for each of fis-
cal years 2022 through 2024.

TITLE II—ENSURING AN AGRICUL-
TURAL WORKFORCE FOR
THE FUTURE

Subtitle A—Reforming the H–2A
Worker Program

SEC. 201. COMPREHENSIVE AND STREAMLINED ELEC-
TRONIC H–2A PLATFORM.

(a) Streamlined H–2A Platform.—

(1) In general.—Not later than 12 months
after the date of the enactment of this Act, the Sec-
retary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall ensure the establishment of an electronic platform through which a petition for an H–2A worker may be filed. Such platform shall—

(A) serve as a single point of access for an employer to input all information and supporting documentation required for obtaining labor certification from the Secretary of Labor and the adjudication of the H–2A petition by the Secretary of Homeland Security;

(B) serve as a single point of access for the Secretary of Homeland Security, the Secretary of Labor, and State workforce agencies to concurrently perform their respective review and adjudicatory responsibilities in the H–2A process;

(C) facilitate communication between employers and agency adjudicators, including by allowing employers to—

(i) receive and respond to notices of deficiency and requests for information;

(ii) submit requests for inspections and licensing;
(iii) receive notices of approval and denial; and
(iv) request reconsideration or appeal of agency decisions; and
(D) provide information to the Secretary of State and U.S. Customs and Border Protection necessary for the efficient and secure processing of H–2A visas and applications for admission.

(2) Objectives.—In developing the platform described in paragraph (1), the Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of State, and United States Digital Service, shall streamline and improve the H–2A process, including by—

(A) eliminating the need for employers to submit duplicate information and documentation to multiple agencies;
(B) eliminating redundant processes, where a single matter in a petition is adjudicated by more than one agency;
(C) reducing the occurrence of common petition errors, and otherwise improving and expediting the processing of H–2A petitions; and
(D) ensuring compliance with H–2A program requirements and the protection of the wages and working conditions of workers.

(b) **ONLINE JOB REGISTRY.**—The Secretary of Labor shall maintain a national, publicly-accessible online job registry and database of all job orders submitted by H–2A employers. The registry and database shall—

1. be searchable using relevant criteria, including the types of jobs needed to be filled, the date(s) and location(s) of need, and the employer(s) named in the job order;
2. provide an interface for workers in English, Spanish, and any other language that the Secretary of Labor determines to be appropriate; and
3. provide for public access of job orders approved under section 218(h)(2) of the Immigration and Nationality Act.

**SEC. 202. AGRICULTURAL LABOR OR SERVICES.**

(a) **DEFINITION.**—Section 101(a) of The Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(53) The term ‘agricultural labor or services’ has the meaning given such term by the Secretary of Agriculture in regulations and includes—
“(A) agricultural labor (as such term is defined in section 3121(g) of the Internal Revenue Code of 1986) except as described in subsection (g)(4) of such section;

“(B) agriculture (as such term is defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), except that the requirement that such work be performed by a farmer or on a farm as an incident to or in conjunction with such farming operations shall not apply if such work is being performed at the direction of and as incident to or in conjunction with the farmers’ farming operation;

“(C) agricultural employment (as such term is defined in Section 3 of the Migrant and Seasonal Worker Protection Act (29 U.S.C. 1802));

“(D) the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state;

“(E) all activities required for the preparation, processing or manufacturing, for further distribution, of—
“(i) a product of agriculture (as such term is defined in such section 3(f));

“(ii) a product of aquaculture; or

“(iii) wild-caught fish or shellfish;

“(F) forestry-related activities;

“(G) pressing of apples for cider on a farm;

“(H) logging employment;

“(I) activities related to the management and training of equines; and

“(J) performing any of the activities described in this paragraph for an agricultural employer (as such term is defined in paragraph (2) of section 3 of the Migrant and Seasonal Worker Protection Act (29 U.S.C. 1802), including an agricultural cooperative, except that for purposes of this subparagraph, the limitations described in paragraphs (8)(B)(ii) and (10)(B)(iii) shall not apply), except that in regard to labor or services consisting of meat or poultry processing, the term ‘agricultural labor or services’ only includes the killing of animals and the breakdown of their carcasses.”

(b) CONFORMING AMENDMENTS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—
(1) in section 101(a)(15)(H), by striking “, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm, of a temporary or seasonal nature”; and

(2) in section 218(d)(2), by striking “of a temporary or seasonal nature”.

SEC. 203. H–2A PROGRAM REQUIREMENTS.

Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(1) in subsection (c), by striking paragraph (4);

(2) by redesignating subsection (i) as subsection (p); and

(3) by inserting after subsection (h) the following:

“(i) WAGE REQUIREMENTS.—Each employer under this section will offer the worker, during the period of authorized employment, wages that are at least the greatest of—

“(1) 125 percent of the Federal minimum wage; or
“(2) the applicable State or local minimum wage;

“(j) **HOUSING REQUIREMENTS.**—Employers shall furnish housing in accordance with regulations established by the Secretary of Labor. Such regulations shall be consistent with the following:

“(1) **IN GENERAL.**—The employer shall provide housing meeting applicable State, Federal, and local standards, or secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation.

“(2) **FAMILY HOUSING.**—The employer shall provide family housing to workers with families who request it when it is the prevailing practice in the area and occupation of intended employment to provide family housing.

“(3) **UNITED STATES WORKERS.**—Notwithstanding paragraphs (1) and (2), an employer is not required to provide housing to United States workers who are reasonably able to return to their residence within the same day.

“(4) **TIMING OF INSPECTION.**—

“(A) **IN GENERAL.**—The Secretary of Labor or designee shall make a determination as to whether the housing furnished by an em-
ployer for a worker meets the requirements im-
posed by this subsection prior to the date on
which the Secretary of Labor is required to
make a certification with respect to a petition
for the admission of such worker.

“(B) TIMELY INSPECTION.—The Secretary
of Labor shall provide a process for—

“(i) an employer to request inspection
of housing up to 60 days before the date
on which the employer will file a petition
under this section; and

“(ii) biennial inspection of housing for
workers who are engaged in agricultural
employment.

“(k) TRANSPORTATION REQUIREMENTS.—

“(1) TRAVEL TO PLACE OF EMPLOYMENT.—A
worker who completes 50 percent of the period of
employment specified in the job order shall be reim-
bursed by the employer for the cost of the worker’s
transportation and subsistence from the place from
which the worker came to work for the employer (or
place of last employment, if the worker traveled
from such place) to the place of employment.

“(2) TRAVEL FROM PLACE OF EMPLOYMENT.—
For a worker who completes the period of employ-
ment specified in the job order or who is terminated without cause, the employer shall provide or pay for the worker’s transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker’s transportation and subsistence to such subsequent employer’s place of employment.

“(3) LIMITATION.—

“(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker need not exceed the lesser of—

“(i) the actual cost to the worker of the transportation and subsistence involved; or

“(ii) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

“(B) DISTANCE TRAVELED.—For travel to or from the worker’s home country, if the travel
distance between the worker’s home and the relevant consulate is 50 miles or less, reimbursement for transportation and subsistence may be based on transportation to or from the consulate.

“(1) **Eligibility for H–2A Status and Admission to the United States.**—

“(2) **Visa Validity.**—A visa issued to an H–2A worker shall be valid for 3 years and shall allow for multiple entries during the approved period of admission.

“(3) **Period of Authorized Stay; Admission.**—

“(A) **In General.**—An alien admissible as an H–2A worker shall be authorized to stay in the United States for the period of employment specified in the petition approved by the Secretary of Homeland Security under this section. The maximum continuous period of authorized stay for an H–2A worker is 36 months.

“(B) **Requirement to Remain Outside the United States.**—In the case of an H–2A worker whose maximum continuous period of authorized stay (including any extensions) has expired, the alien may not again be eligible for
such stay until the alien remains outside the United States for a cumulative period of at least 45 days.

“(C) EXCEPTIONS.—The Secretary of Homeland Security shall deduct absences from the United States that take place during an H–2A worker’s period of authorized stay from the period that the alien is required to remain outside the United States under subparagraph (B), if the alien or the alien’s employer requests such a deduction, and provides clear and convincing proof that the alien qualifies for such a deduction. Such proof shall consist of evidence including, but not limited to, arrival and departure records, copies of tax returns, and records of employment abroad.

“(D) ADMISSION.—In addition to the maximum continuous period of authorized stay, an H–2A worker’s authorized period of admission shall include an additional period of 10 days prior to the beginning of the period of employment for the purpose of traveling to the place of employment and 45 days at the end of the period of employment for the purpose of traveling home or seeking an extension of status
based on a subsequent offer of employment if the worker has not reached the maximum con-
tinuous period of authorized stay under sub-
paragraph (A) (subject to the exceptions in sub-
paragraph (C)).

“(4) CONTINUING H–2A WORKERS.—

“(A) SUCCESSIVE EMPLOYMENT.—An H–
2A worker is authorized to start new or concur-
rent employment upon the filing of a nonfrivo-
lous H–2A petition, or as of the requested start
date, whichever is later if—

“(i) the petition to start new or con-
current employment was filed prior to the
expiration of the H–2A worker’s period of
admission as defined in paragraph (3)(D);
and

“(ii) the H–2A worker has not been
employed without authorization in the
United States from the time of last admis-
sion to the United States in H–2A status
through the filing of the petition for new
employment.

“(B) PROTECTION DUE TO IMMIGRANT
VISA BACKLOGS.—Notwithstanding the limita-
tions on the period of authorized stay described
in paragraph (3), any H–2A worker who—

“(i) is the beneficiary of an approved
petition, filed under section 204(a)(1)(E)
or (F) for preference status under section
203(b)(3)(A)(iii); and

“(ii) is eligible to be granted such sta-
tus but for the annual limitations on visas
under section 203(b)(3)(A),

may apply for, and the Secretary of Homeland
Security may grant, an extension of such non-
immigrant status until the Secretary of Home-
land Security issues a final administrative deci-
sion on the alien’s application for adjustment of
status or the Secretary of State issues a final
decision on the alien’s application for an immi-
grant visa.

“(m) H–2A PETITION PROCEDURES.—

“(1) IN GENERAL.—The employer shall submit
information required for the adjudication of the H–
2A petition, including a job order, through the elec-
tronic platform no more than 75 calendar days and
no fewer than 60 calendar days before the employ-
er’s first date of need specified in the petition.
“(2) FILING BY AGRICULTURAL ASSOCIATIONS.—An association of agricultural producers that use agricultural services may file an H–2A petition under paragraph (1). If an association is a joint or sole employer of workers who perform agricultural labor or services, H–2A workers may be used for the approved job opportunities of any of the association’s producer members and such workers may be transferred among its producer members to perform the agricultural labor or services for which the petition was approved.

“(3) PETITIONS INVOLVING STAGGERED ENTRY.—An employer may file a petition involving employment in the same occupational classification and same area of intended employment with multiple start dates if—

“(A) the petition involves no more than 10 start dates;

“(B) the multiple start dates share a common end date;

“(C) no more than 120 days separate the first start date and the final start date listed in the petition; and

“(D) the need for multiple start dates arises from variations in labor needs associated
with the job opportunity identified in the petition.

“(4) POST-CERTIFICATION AMENDMENTS.—The Secretary of Labor shall provide a process for amending a request for labor certification in conjunction with an H–2A petition, subsequent to certification by the Secretary of Labor, in cases in which the requested amendment does not materially change the petition (including the job order).

“(n) SPECIAL PROCEDURES.—

“(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Agriculture and Secretary of Homeland Security, may by regulation establish alternate procedures that reasonably modify program requirements under this section, including for special procedures industries, when the Secretary determines that such modifications are required due to the unique nature of the work involved.

“(2) ALLERGY LIMITATION.—An employer engaged in the commercial beekeeping or pollination services industry may require that an applicant be free from bee pollen, venom, or other bee-related allergies.

“(3) SPECIAL PROCEDURES INDUSTRIES.—
“(A) APPLICATION.—An individual employer in a special procedures industry may file a program petition on its own behalf or in conjunction with an association of employers. The employer’s petition may be part of several related petitions submitted simultaneously that constitute a master petition.

“(B) SPECIAL PROCEDURES INDUSTRY DEFINED.—In this subsection, the term ‘special procedures industry’ means—

“(i) sheepherding and goat herding;

“(ii) itinerant commercial beekeeping and pollination;

“(iii) open range production of livestock;

“(iv) itinerant animal shearing; and

“(v) custom combining industries.”;

and

(4) in subsection (p), as so redesignated, by adding at the end the following:

“(3) TEMPORARILY.—The term ‘temporarily’ means a period not exceeding 350 days.

“(4) JOB ORDER.—The term ‘job order’ means the document containing the material terms and conditions of employment, including obligations and
assurances required under this section or any other law.”

SEC. 204. PORTABLE H–2A VISA PILOT PROGRAM.

(a) Establishment of Pilot Program.—

(1) In general.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Labor and Secretary of Agriculture, shall establish through regulation a 6-year pilot program to facilitate the free movement and employment of H–2A workers to perform agricultural labor or services for agricultural employers registered with the Secretary of Agriculture. Notwithstanding the requirements of section 218 of the Immigration and Nationality Act, such regulation shall establish the requirements for the pilot program, consistent with subsection (b). For purposes of this section, such a worker shall be referred to as a portable H–2A worker, and status as such a worker shall be referred to as portable H–2A status.

(2) Online platform.—The Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall maintain an online electronic platform to connect portable H–2A workers with registered agricul-
tural employers seeking workers to perform agricul-
tural labor or services. Employers shall post on the
platform available job opportunities, including a de-
scription of the nature and location of the work to
be performed, the anticipated period or periods of
need, and the terms and conditions of employment.
Such platform shall allow portable H–2A workers to
search for available job opportunities using relevant
criteria, including the types of jobs needed to be
filled and the dates and locations of need.

(3) LIMITATION.—Notwithstanding the
issuance of the regulation described in paragraph
(1), the Secretary of State may not issue a portable
H–2A visa and the Secretary of Homeland Security
may not confer portable H–2A status on any alien
until the Secretary of Homeland Security, in con-
sultation with the Secretary of Labor and Secretary
of Agriculture, has determined that a sufficient
number of employers have been designated as reg-
istered agricultural employers under subsection
(b)(1) and that such employers have sufficient job
opportunities to employ a reasonable number of
portable H–2A workers to initiate the pilot program.

(b) PILOT PROGRAM ELEMENTS.—The pilot program
in subsection (a) shall contain the following elements:
(1) REGISTERED AGRICULTURAL EMPLOYERS.—

(A) DESIGNATION.—Agricultural employers shall be provided the ability to seek designation as registered agricultural employers. Reasonable fees may be assessed commensurate with the cost of processing applications for designation. A designation shall be valid for a period of up to 3 years unless revoked for failure to comply with program requirements. Registered employers that comply with program requirements may apply to renew such designation for additional periods of up to 3 years for the duration of the pilot program.

(B) LIMITATIONS.—Registered agricultural employers may employ aliens with portable H–2A status without filing a petition. Such employers shall pay such aliens at least the wage required under section 218(d) of the Immigration and Nationality Act (8 U.S.C. 1188(d)).

(C) WORKERS’ COMPENSATION.—If a job opportunity is not covered by or is exempt from the State workers’ compensation law, a registered agricultural employer shall provide, at no cost to the worker, insurance covering injury
and disease arising out of, and in the course of, the worker’s employment, which will provide benefits at least equal to those provided under the State workers’ compensation law.

(2) Designated Workers.—

(A) In general.—Individuals who have been previously admitted to the United States in H–2A status, and maintained such status during the period of admission, shall be provided the opportunity to apply for portable H–2A status. Portable H–2A workers shall be subject to the provisions on visa validity and periods of authorized stay and admission for H–2A workers described in paragraphs (2) and (3) of section 218(j) of the Immigration and Nationality Act (8 U.S.C. 1188(j)(2) and (3)).

(B) Limitations on availability of portable H–2A status.—

(i) Initial offer of employment required.—No alien may be granted portable H–2A status without an initial valid offer of employment to perform temporary or agricultural labor or services from a registered agricultural employer.
(ii) Numerical Limitation.—The total number of aliens who may hold valid portable H–2A status at any one time may not exceed 10,000.

(C) Scope of Employment.—During the period of admission, a portable H–2A worker may perform agricultural labor or services for any employer in the United States that is designated as a registered agricultural employer pursuant to paragraph (1). An employment arrangement under this section may be terminated by either the portable H–2A worker or the registered agricultural employer at any time.

(D) Transfer to New Employment.—At the cessation of employment with a registered agricultural employer, a portable H–2A worker shall have 60 days to secure new employment with a registered agricultural employer.

(E) Maintenance of Status.—A portable H–2A worker who does not secure new employment with a registered agricultural employer within 60 days shall be considered to have failed to maintain such status and shall
depart the United States or be subject to removal under section 237(a)(1)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1188(a)(1)(C)(i)).

(3) ENFORCEMENT.—The Secretary of Labor shall be responsible for conducting investigations and random audits of employers to ensure compliance with the employment-related requirements of this section, consistent with section 218(m) of the Immigration and Nationality Act (8 U.S.C. 1188(m)). The Secretary of Labor shall have the authority to collect reasonable civil penalties for violations, which shall be utilized by the Secretary for the administration and enforcement of the provisions of this section.

(4) ELIGIBILITY FOR SERVICES.—Section 305 of Public Law 99–603 (100 Stat. 3434) is amended by striking “other employment rights as provided in the worker’s specific contract under which the non-immigrant was admitted” and inserting “employment-related rights”.

(c) REPORT.—Not later than 6 months before the end of the third fiscal year of the pilot program, the Secretary of Homeland Security, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall
prepare and submit to the Committees on the Judiciary of the House of Representatives and the Senate, a report that provides—

(1) the number of employers designated as registered agricultural employers, broken down by geographic region, farm size, and the number of job opportunities offered by such employers;

(2) the number of employers whose designation as a registered agricultural employer was revoked;

(3) the number of individuals granted portable H–2A status in each fiscal year, along with the number of such individuals who maintained portable H–2A status during all or a portion of the 3-year period of the pilot program;

(4) an assessment of the impact of the pilot program on the wages and working conditions of United States farm workers;

(5) the results of a survey of individuals granted portable H–2A status, detailing their experiences with and feedback on the pilot program;

(6) the results of a survey of registered agricultural employers, detailing their experiences with and feedback on the pilot program;
(7) an assessment as to whether the program should be continued and if so, any recommendations for improving the program; and

(8) findings and recommendations regarding effective recruitment mechanisms, including use of new technology to match workers with employers and ensure compliance with applicable labor and employment laws and regulations.