

[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.

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

4 (a) SHORT TITLE.—This Act may be cited as the

5 “Dignity for Immigrants while Guarding our Nation to Ig-

6 nite and Deliver the American Dream Act” or as the

7 “DIGNIDAD (Dignity) Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 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. 1133. Homeland Security Investigations Innovation Lab.

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 ILLICIT
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

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

- 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.
- Sec. 10302. Enhanced penalties for organized smuggling schemes.
- Sec. 10303. Expanding financial sanctions on narcotics trafficking and money laundering.
- Sec. 10304. Support for transnational anti-gang task forces for countering criminal gangs.

DIVISION B—AMERICAN DREAM AND PROMISE

- Sec. 1. Short title.

TITLE I—DREAM ACT

- Sec. 1101. Short title.
- Sec. 1102. Permanent resident status on a conditional basis for certain long-term residents who entered the united states as children.
- Sec. 1103. Terms of permanent resident status on a conditional basis.
- Sec. 1104. Removal of conditional basis of permanent resident status.
- Sec. 1105. Restoration of State option to determine residency for purposes of higher education benefits.

TITLE II—AMERICAN PROMISE ACT

- Sec. 2101. Short title.
- Sec. 2102. Adjustment of status for certain nationals of certain countries designated for temporary protected status or deferred enforced departure.
- Sec. 2103. Clarification.

TITLE III—GENERAL PROVISIONS

- Sec. 3101. Definitions.
- Sec. 3102. Submission of biometric and biographic data; background checks.
- Sec. 3103. Limitation on removal; application and fee exemption; and other conditions on eligible individuals.
- Sec. 3104. Determination of continuous presence and residence.
- Sec. 3105. Exemption from numerical limitations.
- Sec. 3106. Availability of administrative and judicial review.
- Sec. 3107. Documentation requirements.
- Sec. 3108. Rule making.
- Sec. 3109. Confidentiality of information.
- Sec. 3110. Grant program to assist eligible applicants.
- Sec. 3111. Provisions affecting eligibility for adjustment of status.
- Sec. 3112. Supplementary surcharge for appointed counsel.
- Sec. 3113. Annual report on provisional denial authority.

TITLE IV—DIGNITY AND REDEMPTION PROGRAMS

Subtitle A—Dignity Program

- Sec. 4001. Establishment.
- Sec. 4002. Eligibility.
- Sec. 4003. Registration; departure.
- Sec. 4004. Program participation.
- Sec. 4005. Completion.

Subtitle B—Redemption Program

- Sec. 4101. Establishment.
- Sec. 4102. Conditions.
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Subtitle C—Contribution to American Workers

- Sec. 4200. Purpose.
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- Sec. 4202. Conforming amendments.

PART 1—PROMOTING APPRENTICESHIPS THROUGH REGIONAL TRAINING NETWORKS

- Sec. 4301. Definitions.
- Sec. 4302. Allotments to states.
- Sec. 4303. Grants to partnerships.
- Sec. 4304. Use of funds.
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PART 2—HIGH-DEMAND CAREERS

- Sec. 4401. Grants for access to high-demand careers.

DIVISION C—IMPROVING THE H-2B NONIMMIGRANT WORKER PROGRAM

- Sec. 1001. Short title.
- Sec. 1002. Definitions.
- Sec. 1003. H-2B cap relief.
- Sec. 1004. Increased sanctions for willful misrepresentation or failure to meet the requirements for petitioning for an H-2B worker.
- Sec. 1005. Reduction of paperwork burden.
- Sec. 1006. Workplace safety.
- Sec. 1007. Foreign labor recruiting; prohibition on fees.
- Sec. 1008. Program integrity measures.
- Sec. 1009. Program eligibility.
- Sec. 1010. H-2B employer notification requirement.
- Sec. 1011. Authorization of appropriations.

DIVISION D—AMERICAN AGRICULTURE DOMINANCE ACT

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

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

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

6 **TITLE I—BORDER SECURITY**

7 **SEC. 1101. DEFINITIONS.**

8 In this title:

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

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

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

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

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

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

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

23 (8) TRANSIT ZONE.—The term “transit zone”
24 has the meaning given such term in section
25 1092(a)(8) of the National Defense Authorization

1 Act for Fiscal Year 2017 (Public Law 114–328; 6
2 U.S.C. 223(a)(7)).

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

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

13 **Subtitle A—Infrastructure and** 14 **Equipment**

15 **SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR BAR-** 16 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

22 “(a) IN GENERAL.—The Secretary of Homeland Se-
23 curity shall take such actions as may be necessary (includ-
24 ing the removal of obstacles to detection of illegal en-
25 trants) to design, test, construct, install, deploy, integrate,

1 and operate physical barriers, tactical infrastructure, and
2 technology in the vicinity of the United States border to
3 achieve situational awareness and operational control of
4 the border and deter, impede, and detect illegal activity
5 in high traffic areas.”;

6 (2) in subsection (b)—

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

10 (B) in paragraph (1)—

11 (i) in subparagraph (A)—

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

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

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

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

23 “(B) PHYSICAL BARRIERS AND TACTICAL
24 INFRASTRUCTURE.—The Secretary, in carrying
25 out this section, shall deploy along the United

1 States border the most practical and effective
2 physical barriers and tactical infrastructure
3 available for achieving situational awareness
4 and operational control of the border.”;

5 (iii) in subparagraph (C)—

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

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

20 (II) in clause (ii)—

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

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

1 “(II) delay the transfer to the
2 United States of the possession of
3 property or affect the validity of any
4 property acquisition by the United
5 States by purchase or eminent do-
6 main, or to otherwise affect the emi-
7 nent domain laws of the United States
8 or of any State; or”; and

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

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

13 (iv) by striking subparagraph (D);
14 (C) in paragraph (2)—

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

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

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

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

1 “(3) AGENT SAFETY.—In carrying out this sec-
2 tion, the Secretary of Homeland Security, when de-
3 signing, constructing, and deploying physical bar-
4 riers, tactical infrastructure, or technology, shall in-
5 corporate such safety features into such design, con-
6 struction, or deployment of such physical barriers,
7 tactical infrastructure, or technology, as the case
8 may be, that the Secretary determines are necessary
9 to maximize the safety and effectiveness of officers
10 or agents of the Department of Homeland Security
11 or of any other Federal agency deployed in the vicin-
12 ity of such physical barriers, tactical infrastructure,
13 or technology.”; and

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

16 (3) in subsection (c)—

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

19 “(1) IN GENERAL.—Notwithstanding any other
20 provision of law, the Secretary of Homeland Security
21 shall have the authority to waive all legal require-
22 ments the Secretary determines necessary to ensure
23 the expeditious design, testing, construction, instal-
24 lation, deployment, integration, and operation of the
25 physical barriers, tactical infrastructure, and tech-

1 nology under this section. Such waiver authority
2 shall also apply with respect to any maintenance car-
3 ried out on such physical barriers, tactical infra-
4 structure, or technology. Any such decision by the
5 Secretary shall be effective upon publication in the
6 Federal Register.”;

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

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

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

19 (4) by adding at the end the following new sub-
20 sections:

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

1 “(f) DEFINITIONS.—In this section:

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

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

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

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

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

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

23 “(5) SITUATIONAL AWARENESS.—The term ‘sit-
24 uational awareness’ has the meaning given such
25 term in section 1092(a)(7) of the National Defense

1 Authorization Act for Fiscal Year 2017 (Public Law
2 114–328; 6 U.S.C. 223(a)(7)).

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

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

9 “(A) Tower-based surveillance technology.

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

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

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

17 “(E) Advanced unattended surveillance
18 sensors.

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

21 “(G) Unmanned aircraft systems.

22 “(H) Other border detection, communica-
23 tion, and surveillance technology.

24 “(8) UNMANNED AIRCRAFT SYSTEM.—The term
25 ‘unmanned aircraft system’ has the meaning given

1 such term in section 44801 of title 49, United
2 States Code.”.

3 **SEC. 1112. BORDER BARRIER SYSTEM CONSTRUCTION.**

4 (a) IN GENERAL.—

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

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

17 (3) USE OF FUNDS.—To carry out this section,
18 the Secretary shall expend all funds appropriated or
19 explicitly obligated for the construction of the border
20 barrier system that were appropriated or obligated,
21 as the case may be, for use beginning October 1,
22 2016.

23 (b) PLAN TO COMPLETE TACTICAL INFRASTRUC-
24 TURE AND TECHNOLOGY ELEMENTS OF SYSTEM.—Not
25 later than 90 days after the date of the enactment of this

1 section, the Secretary shall submit to the appropriate con-
2 gressional committees an implementation plan, including
3 quarterly benchmarks and cost estimates, for satisfying all
4 requirements of the construction of the border barrier sys-
5 tem referred to in paragraph (1) of subsection (a), includ-
6 ing tactical infrastructure, technology, and other elements
7 as identified by the Department prior to January 20,
8 2021, through the expenditure of funds appropriated or
9 explicitly obligated, as the case may be, for use beginning
10 October 1, 2016, as well as any future funds appropriated
11 by Congress.

12 (c) UPHOLD NEGOTIATED AGREEMENTS.—The Sec-
13 retary shall ensure that all agreements executed in writing
14 between the Department and private citizens, State, local,
15 or Tribal governments, or other stakeholders are honored
16 by the Department relating to current and future con-
17 struction of the border barrier system as required by such
18 agreements.

19 (d) DEFINITIONS.—In this section:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-
21 TEES.—The term “appropriate congressional com-
22 mittees” means the Committee on Homeland Secu-
23 rity and the Committee on Appropriations of the
24 House of Representatives and the Committee on

1 Homeland Security and Governmental Affairs and
2 the Committee on Appropriations of the Senate.

3 (2) TACTICAL INFRASTRUCTURE.—The term
4 “tactical infrastructure” includes boat ramps, access
5 gates, checkpoints, lighting, and roads associated
6 with a border barrier system.

7 (3) TECHNOLOGY.—The term “technology” in-
8 cludes border surveillance and detection technology,
9 including linear ground detection systems, associated
10 with a border barrier system.

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

12 (a) AIR AND MARINE OPERATIONS FLIGHT
13 HOURS.—The Secretary shall ensure that not fewer than
14 95,000 annual flight hours are carried out by Air and Ma-
15 rine Operations of CBP.

16 (b) UNMANNED AIRCRAFT SYSTEMS.—The Sec-
17 retary, after coordination with the Administrator of the
18 Federal Aviation Administration, shall ensure that Air and
19 Marine Operations operate unmanned aircraft systems on
20 the southern border of the United States for not less than
21 24 hours per day for 7 days per week.

22 (c) PRIMARY MISSIONS.—The Commissioner shall
23 ensure that—

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

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

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

5 (2) the Executive Assistant Commissioner of
6 Air and Marine Operations assigns the greatest pri-
7 ority to support missions outlined under paragraph
8 (1).

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

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

14 (2) direct Air and Marine Operations to sup-
15 port requests from Sector Chiefs as their primary
16 mission.

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

21 (f) SMALL UNMANNED AIRCRAFT SYSTEMS.—

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

1 (A) meeting the unmet flight hour oper-
2 ational requirements of the U.S. Border Patrol;
3 and

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

8 (2) COORDINATION.—In carrying out para-
9 graph (1), the Chief of the U.S. Border Patrol shall
10 coordinate—

11 (A) flight operations with the Adminis-
12 trator of the Federal Aviation Administration to
13 ensure the safe and efficient operation of the
14 National Airspace System; and

15 (B) with the Executive Assistant Commis-
16 sioner for Air and Marine Operations of CBP
17 to—

18 (i) ensure the safety of other CBP
19 aircraft flying in the vicinity of small un-
20 manned aircraft systems operated by the
21 U.S. Border Patrol; and

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

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

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

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

8 (C) by inserting after subparagraph (B)
9 the following new subparagraph:”.

10 “(C) carry out the small unmanned air-
11 craft system (as such term is defined in section
12 44801 of title 49, United States Code) require-
13 ments pursuant to subsection (f) of section
14 1113 of the Border Security for America Act;
15 and”.

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

24 (h) DEFINITIONS.—In this section:

1 (1) GOT AWAY.—The term “got away” has the
2 meaning given such term in section 1092(a)(3) of
3 the National Defense Authorization Act for Fiscal
4 Year 2017 (Public Law 114–328; 6 U.S.C.
5 223(a)(3)).

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

11 **SEC. 1114. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
12 **TORS AND TRANSIT ZONE.**

13 (a) IN GENERAL.—Not later than September 30,
14 2023, the Secretary, in implementing section 102 of the
15 Illegal Immigration Reform and Immigrant Responsibility
16 Act of 1996 (as amended by section 1111 of this division),
17 and acting through the appropriate component of the De-
18 partment of Homeland Security, shall deploy to each sec-
19 tor or region of the southern border and the northern bor-
20 der, in a prioritized manner to achieve situational aware-
21 ness and operational control of such borders, the following
22 additional capabilities:

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

25 (A) Tower-based surveillance technology.

1 (B) Subterranean surveillance and detec-
2 tion technologies.

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

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

7 (ii) Unmanned aerial vehicles with
8 maritime surveillance capability.

9 (iii) U.S. Customs and Border Protec-
10 tion maritime patrol aircraft.

11 (iv) Coastal radar surveillance sys-
12 tems.

13 (v) Maritime signals intelligence capa-
14 bilities.

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

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

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

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

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

1 (I) Improved agent communications capa-
2 bilities.

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

5 (A) Tower-based surveillance technology.

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

8 (C) Man-portable unmanned aerial vehi-
9 cles.

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

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

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

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

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

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

22 (A) Tower-based surveillance technology.

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

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

3 (D) Advanced unattended surveillance sen-
4 sors.

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

7 (F) Mobile vehicle-mounted and man-port-
8 able surveillance systems.

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

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

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

15 (A) Tower-based surveillance technology.

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

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

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

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

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

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

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

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

9 (A) Tower-based surveillance technology.

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

12 (C) Ultralight aircraft detection capabili-
13 ties.

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

16 (E) Mobile vehicle-mounted and man-port-
17 able surveillance systems.

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

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

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

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

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

3 (A) Tower-based surveillance technology.

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

6 (C) Improved agent communications capa-
7 bilities.

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

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

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

14 (G) Mobile vehicle-mounted and man-port-
15 able surveillance capabilities.

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

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

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

22 (A) Tower-based surveillance technology.

23 (B) Increased monitoring for cross-river
24 dams, culverts, and footpaths.

1 (C) Improved agent communications capa-
2 bilities.

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

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

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

9 (G) Mobile vehicle-mounted and man-port-
10 able surveillance capabilities.

11 (H) Man-portable unmanned aerial vehi-
12 cles.

13 (I) Improved agent communications capa-
14 bilities.

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

17 (A) Tower-based surveillance technology.

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

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

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

25 (E) Ultralight aircraft detection capability.

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

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

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

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

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

11 (A) Tower-based surveillance technology.

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

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

17 (D) Ultralight aircraft detection capability.

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

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

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

24 (H) Increased maritime interdiction capa-
25 bilities.

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

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

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

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

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

12 (B) Coastal radar surveillance systems.

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

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

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

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

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

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

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

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

6 (B) Increased maritime interdiction capa-
7 bilities.

8 (C) Mobile vehicle-mounted and man-port-
9 able surveillance capabilities.

10 (D) Advanced unattended surveillance sen-
11 sors.

12 (E) Ultralight aircraft detection capabili-
13 ties.

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

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

18 (H) Improved agent communications sys-
19 tems.

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

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

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

3 (C) Advanced unattended surveillance sen-
4 sors.

5 (D) Ultralight aircraft detection capabili-
6 ties.

7 (E) Man-portable unmanned aerial vehi-
8 cles.

9 (F) Improved agent communications sys-
10 tems.

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

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

16 (B) Mobile vehicle-mounted and man-port-
17 able surveillance capabilities.

18 (C) Advanced unattended surveillance sen-
19 sors.

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

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

24 (F) Improved agent communications sys-
25 tems.

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

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

6 (B) Coastal radar surveillance systems.

7 (C) Increased maritime interdiction capa-
8 bilities.

9 (D) Mobile vehicle-mounted and man-port-
10 able surveillance capabilities.

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

13 (F) Ultralight aircraft detection capabili-
14 ties.

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

17 (H) Improved agent communications sys-
18 tems.

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

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

24 (B) Coastal radar surveillance systems.

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

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

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

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

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

11 (H) Improved agent communications sys-
12 tems.

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

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

18 (B) Mobile vehicle-mounted and man-port-
19 able surveillance capabilities.

20 (C) Advanced unattended surveillance sen-
21 sors.

22 (D) Ultralight aircraft detection capabili-
23 ties.

24 (E) Man-portable unmanned aerial vehi-
25 cles.

1 (F) Improved agent communications sys-
2 tems.

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

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

8 (B) Mobile vehicle-mounted and man-port-
9 able surveillance capabilities.

10 (C) Advanced unattended surveillance sen-
11 sors.

12 (D) Ultralight aircraft detection capabili-
13 ties.

14 (E) Man-portable unmanned aerial vehi-
15 cles.

16 (F) Improved agent communications sys-
17 tems.

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

20 (A) Not later than two years after the date
21 of the enactment of this Act, an increase in the
22 number of overall cutter, boat, and aircraft
23 hours spent conducting interdiction operations
24 over the average number of such hours during
25 the preceding three fiscal years.

1 (B) Increased maritime signals intelligence
2 capabilities.

3 (C) To increase maritime domain aware-
4 ness, the following:

5 (i) Unmanned aerial vehicles with
6 maritime surveillance capability.

7 (ii) Increased maritime aviation patrol
8 hours.

9 (D) Increased operational hours for mari-
10 time security components dedicated to joint
11 counter-smuggling and interdiction efforts with
12 other Federal agencies, including the
13 Deployable Specialized Forces of the Coast
14 Guard.

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

22 (b) TACTICAL FLEXIBILITY.—

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

1 (A) IN GENERAL.—Beginning on Sep-
2 tember 30, 2022, or after the Secretary has de-
3 ployed at least 25 percent of the capabilities re-
4 quired in each sector specified in subsection (a),
5 whichever comes later, the Secretary may devi-
6 ate from such capability deployments if the Sec-
7 retary determines that such deviation is re-
8 quired to achieve situational awareness or oper-
9 ational control.

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

23 (2) TRANSIT ZONE.—

24 (A) NOTIFICATION.—The Secretary shall
25 notify the Committee on Homeland Security

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

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

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

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

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

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

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

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

14 (c) EXIGENT CIRCUMSTANCES.—

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

1 (2) NOTIFICATION.—The Secretary shall notify
2 the Committee on Homeland Security of the House
3 of Representative and the Committee on Homeland
4 Security and Governmental Affairs of the Senate not
5 later than 30 days after making a determination
6 under paragraph (1). Such notification shall include
7 a detailed justification regarding such determination.

8 (d) INTEGRATION.—In carrying out subsection (a),
9 the Secretary shall, to the greatest extent practicable, inte-
10 grate, within each sector or region of the southern border
11 and northern border, as the case may be, the deployed ca-
12 pabilities specified in such subsection as necessary to
13 achieve situational awareness and operational control of
14 such borders.

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

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

21 **SEC. 1116. BORDER SECURITY TECHNOLOGY PROGRAM**
22 **MANAGEMENT.**

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

1 **“SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

3 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
4 this section, the term ‘major acquisition program’ means
5 an acquisition program of the Department that is esti-
6 mated by the Secretary to require an eventual total ex-
7 penditure of at least \$300,000,000 (based on fiscal year
8 2022 constant dollars) over its life-cycle cost.

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

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

16 “(2) document that each such program is satis-
17 fying cost, schedule, and performance thresholds as
18 specified in such baseline, in compliance with rel-
19 evant departmental acquisition policies and the Fed-
20 eral Acquisition Regulation; and

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

24 “(c) ADHERENCE TO STANDARDS.—The Secretary,
25 acting through the Under Secretary for Management and
26 the Commissioner of U.S. Customs and Border Protection,

1 shall ensure border security technology acquisition pro-
2 gram managers who are responsible for carrying out this
3 section adhere to relevant internal control standards iden-
4 tified by the Comptroller General of the United States.
5 The Commissioner shall provide information, as needed,
6 to assist the Under Secretary in monitoring management
7 of border security technology acquisition programs under
8 this section.

9 “(d) PLAN.—The Secretary, acting through the
10 Under Secretary for Management, in coordination with
11 the Under Secretary for Science and Technology and the
12 Commissioner of U.S. Customs and Border Protection,
13 shall submit to the Committee on Homeland Security of
14 the House of Representatives and the Committee on
15 Homeland Security and Governmental Affairs of the Sen-
16 ate a plan for testing, evaluating, and using independent
17 verification and validation of resources relating to the pro-
18 posed acquisition of border security technology. Under
19 such plan, the proposed acquisition of new border security
20 technologies shall be evaluated through a series of assess-
21 ments, processes, and audits to ensure—

22 “(1) compliance with relevant departmental ac-
23 quisition policies and the Federal Acquisition Regu-
24 lation; and

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

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended by striking the items relating to sections 435 and
4 436 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.”.

5 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
6 OF APPROPRIATIONS.—No additional funds are author-
7 ized to be appropriated to carry out section 437 of the
8 Homeland Security Act of 2002, as added by subsection
9 (a).

10 **SEC. 1117. NATIONAL GUARD SUPPORT TO SECURE THE**
11 **SOUTHERN BORDER.**

12 (a) NATIONAL GUARD SUPPORT.—

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

20 (2) APPROVAL AND ORDER.—With the approval
21 of the Secretary and the Secretary of Defense, the
22 Governor of a State may order any units or per-
23 sonnel of the National Guard of such State to per-
24 form operations and missions under section 502(f)

1 of title 32, United States Code, for the purpose of
2 securing the southern border of the United States.

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

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

7 (2) operation of ground-based surveillance sys-
8 tems;

9 (3) deployment of manned aircraft, unmanned
10 aerial surveillance systems, and ground-based sur-
11 veillance systems to support continuous surveillance
12 of the southern border; and

13 (4) intelligence analysis support.

14 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
15 retary of Defense may deploy such materiel, equipment,
16 and logistics support as may be necessary to ensure the
17 effectiveness of the assistance provided under subsection
18 (a).

19 (d) READINESS.—To ensure that the use of units and
20 personnel of the National Guard of a State authorized
21 pursuant to this section does not degrade the training and
22 readiness of such units and personnel, the Secretary of
23 Defense shall consider the following requirements when
24 authorizing or approving support under subsection (a):

1 (1) The performance of such support may not
2 affect adversely the quality of such training or readi-
3 ness or otherwise interfere with the ability of a unit
4 or personnel of the National Guard of a State to
5 perform the military functions of such member or
6 unit.

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

11 (e) REPORT ON READINESS.—Upon the request of
12 the Secretary, the Secretary of Defense shall provide to
13 the Secretary a report on the readiness of units and per-
14 sonnel of the National Guard that the Secretary of De-
15 fense determines are capable of providing such support.

16 (f) REIMBURSEMENT NOTIFICATION.—Prior to pro-
17 viding any support under subsection (a), the Secretary of
18 Defense shall notify the Secretary whether the requested
19 support will be reimbursed under section 277 of title 10,
20 United States Code.

21 (g) REIMBURSEMENT TO STATES.—The Secretary of
22 Defense may reimburse a State for costs incurred in the
23 deployment of any units or personnel of the National
24 Guard pursuant to subsection (a).

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

4 (i) REPORTS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act and bian-
7 nually thereafter through December 31, 2025, the
8 Secretary of Defense shall submit to the appropriate
9 congressional defense committees (as defined in sec-
10 tion 101(a)(16) of title 10, United States Code) a
11 report regarding any support provided pursuant to
12 subsection (a) for the six month period preceding
13 each such report.

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

16 (A) the support provided; and

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

19 **SEC. 1118. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
20 **DER SECURITY ON CERTAIN FEDERAL LAND.**

21 (a) PROHIBITION ON INTERFERENCE WITH U.S.
22 CUSTOMS AND BORDER PROTECTION.—

23 (1) IN GENERAL.—The Secretary concerned
24 may not impede, prohibit, or restrict activities of
25 U.S. Customs and Border Protection on covered

1 Federal land to carry out the activities described in
2 subsection (b).

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

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

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

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

20 (A) carrying out section 102 of the Illegal
21 Immigration Reform and Immigrant Responsi-
22 bility Act of 1996 (Division C of Public Law
23 104–208; 8 U.S.C. 1103 note), as amended by
24 section 1111 of this division;

1 (B) the execution of search and rescue op-
2 erations;

3 (C) the use of motorized vehicles, foot pa-
4 trols, and horseback to patrol the border area,
5 apprehend illegal entrants, and rescue individ-
6 uals; and

7 (D) the remediation of tunnels used to fa-
8 cilitate unlawful immigration or other illicit ac-
9 tivities.

10 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
11 ITY.—

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

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

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

23 (B) The Endangered Species Act of 1973
24 (16 U.S.C. 1531 et seq.).

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

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

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

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

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

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

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

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

20 (K) The Comprehensive Environmental
21 Response, Compensation, and Liability Act of
22 1980 (42 U.S.C. 9601 et seq.).

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

1 (M) The Antiquities Act (16 U.S.C. 431 et
2 seq.).

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

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

8 (P) The Farmland Protection Policy Act
9 (7 U.S.C. 4201 et seq.).

10 (Q) The Coastal Zone Management Act of
11 1972 (16 U.S.C. 1451 et seq.).

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

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

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

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

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

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

1 (X) The Otay Mountain Wilderness Act of
2 1999 (Public Law 106–145).

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

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

9 (AA) The National Park Service General
10 Authorities Act (Public Law 91–383, 16 U.S.C.
11 1a–1 et seq.).

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

15 (CC) Sections 301(a) through (f) of the
16 Arizona Desert Wilderness Act (Public Law
17 101–628).

18 (DD) The Rivers and Harbors Act of 1899
19 (33 U.S.C. 403).

20 (EE) The Eagle Protection Act (16 U.S.C.
21 668 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (h) DEFINITIONS.—In this section:

23 (1) COVERED FEDERAL LAND.—The term “cov-
24 ered Federal land” includes all land under the con-
25 trol of the Secretary concerned that is located within

1 100 miles of the southern border or the northern
2 border.

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

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

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

11 **SEC. 1119. LANDOWNER AND RANCHER SECURITY EN-**
12 **HANCEMENT.**

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

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

20 (A) verifying security claims and the bor-
21 der security metrics established by the Depart-
22 ment of Homeland Security under section 1092
23 of the National Defense Authorization Act for
24 Fiscal Year 2017 (Public Law 114–328; 6
25 U.S.C. 223); and

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

4 (2) may provide, through the Secretary, rec-
5 ommendations to Congress.

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

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

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

16 (2) lives and works in the United States within
17 80 miles from the southern border or the northern
18 border.

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

1 **SEC. 1120. ERADICATION OF CARRIZO CANE AND SALT**
2 **CEDAR.**

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

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

13 **SEC. 1121. SOUTHERN BORDER THREAT ANALYSIS, BORDER**
14 **PATROL STRATEGIC PLAN, AND NORTHERN**
15 **BORDER THREAT ANALYSIS.**

16 (a) **SOUTHER BORDER THREAT ANALYSIS.**—

17 (1) **REQUIREMENT.**—Not later than 180 days
18 after the date of the enactment of this Act, the Sec-
19 retary shall submit to the Committee on Homeland
20 Security of the House of Representatives and the
21 Committee on Homeland Security and Governmental
22 Affairs of the Senate a Southern border threat anal-
23 ysis.

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

1 (A) current and potential terrorism and
2 criminal threats posed by individuals and orga-
3 nized groups seeking—

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

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

8 (B) improvements needed at and between
9 ports of entry along the Southern border to pre-
10 vent terrorists and instruments of terror from
11 entering the United States;

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

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

21 (E) the current percentage of operational
22 control achieved by the Department on the
23 Southern border; and

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

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

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

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

16 (C) the infrastructure needs and chal-
17 lenges;

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

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

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

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

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

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

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

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

24 (2) Information relating to the dissemination of
25 information relating to border security or border

1 threats with respect to the efforts of the Department
2 and other appropriate Federal agencies.

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

5 (A) increase situational awareness, includ-
6 ing—

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

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

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

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

20 (D) focus intelligence collection to disrupt
21 transnational criminal organizations outside of
22 the international and maritime borders of the
23 United States; and

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

4 (4) Information relating to initiatives of the De-
5 partment with respect to operational coordination,
6 including any relevant task forces of the Depart-
7 ment.

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

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

15 (7) Information relating to border security in-
16 formation received from—

17 (A) State, local, Tribal, territorial, and
18 other Federal law enforcement agencies that
19 have jurisdiction on the border or in the mari-
20 time environment; and

21 (B) border community stakeholders, in-
22 cluding representatives from—

23 (i) border agricultural and ranching
24 organizations; and

25 (ii) business and civic organizations.

1 (8) Information relating to the staffing require-
2 ments with respect to border security for the De-
3 partment.

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

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

9 (A) identifying and detecting fraudulent
10 documents;

11 (B) understanding the scope of CBP en-
12 forcement authorities and appropriate use of
13 force policies; and

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

17 (d) NORTHERN BORDER THREAT ANALYSIS.—Not
18 later than 180 days after the date of the enactment of
19 this Act, the Secretary shall submit to the Committee on
20 Homeland Security of the House of Representatives and
21 the Committee on Homeland Security and Governmental
22 Affairs of the Senate an update of the Northern Border
23 Threat Analysis as required in the Northern Border Secu-
24 rity Review Act (Public Law 114-267).

1 **SEC. 1122. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
2 **PROTECTION.**

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

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

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

10 (3) by inserting after paragraph (18) the fol-
11 lowing new paragraphs:

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

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

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

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

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

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

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

17 “(1) the terms”;

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

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

23 “(2) the term ‘unmanned aerial systems’ has
24 the meaning given the term ‘unmanned aircraft sys-
25 tem’ in section 331 of the FAA Modernization and

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

3 **SEC. 1123. AGENT AND OFFICER TECHNOLOGY USE.**

4 In carrying out section 102 of the Illegal Immigration
5 Reform and Immigrant Responsibility Act of 1996 (as
6 amended by section 1111 of this division) and section
7 1113 of this division, the Secretary shall, to the greatest
8 extent practicable, ensure that technology deployed to gain
9 situational awareness and operational control of the bor-
10 der be provided to front-line officers and agents of the De-
11 partment of Homeland Security.

12 **SEC. 1124. INTEGRATED BORDER ENFORCEMENT TEAMS.**

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

16 **“SEC. 447. INTEGRATED BORDER ENFORCEMENT TEAMS.**

17 “(a) ESTABLISHMENT.—There is established within
18 the Department a program to be known as the Integrated
19 Border Enforcement Team program (referred to in this
20 section as ‘IBET’) for the purposes described in sub-
21 section (b).

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

24 “(1) Enhance cooperation between the United
25 States and Canada with respect to border security.

1 “(2) Enhance security between designated ports
2 of entry.

3 “(3) Detect, investigate, prevent, and respond
4 to terrorism, transnational criminal organizations,
5 and other violations of law related to border secu-
6 rity.

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

10 “(5) Execute coordinated activities in further-
11 ance of border security and homeland security.

12 “(6) Enhance information sharing, including
13 the dissemination of homeland security information
14 among such components and offices of the Depart-
15 ment and international partners.

16 “(c) COMPOSITION AND ESTABLISHMENT OF
17 UNITS.—

18 “(1) COMPOSITION.—IBET units may be com-
19 posed of personnel from the following:

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

21 “(B) U.S. Immigration and Customs En-
22 forcement, led by Homeland Security Investiga-
23 tions.

24 “(C) Other Department personnel, as ap-
25 propriate.

1 “(D) Other Federal, State, local, Tribal,
2 and foreign law enforcement agencies, as appro-
3 priate.

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

6 “(2) ESTABLISHMENT OF UNITS.—

7 “(A) IN GENERAL.—The Secretary may es-
8 tablish IBET units in regions in which such
9 units can contribute to the purpose of IBET.

10 “(B) ASSESSMENT.—Prior to establishing
11 an IBET unit pursuant to subparagraph (A),
12 the Secretary shall assess the establishment of
13 such unit in a particular region with the fol-
14 lowing criteria:

15 “(i) The likelihood that the establish-
16 ment of such unit in such region would sig-
17 nificantly mitigate cross-border threats, in-
18 cluding such threats posed by
19 transnational criminal organizations and
20 terrorist groups.

21 “(ii) The availability of Federal,
22 State, local, Tribal, and foreign law en-
23 forcement resources to participate in such
24 unit.

1 “(iii) Whether the establishment of
2 such unit would duplicate the efforts of ex-
3 isting interagency task forces or centers
4 within such region, including the Border
5 Enforcement Security Task Force estab-
6 lished under section 432.

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

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

12 “(2) take other actions to assist Federal, State,
13 local, and Tribal entities to participate in such unit,
14 including providing financial assistance for oper-
15 ational, administrative, and technological costs asso-
16 ciated with such participation;

17 “(3) direct the development of policy and guid-
18 ance necessary to identify, assess, and integrate the
19 available partner resources in relevant border sector
20 security assessments and resource planning docu-
21 ments;

22 “(4) establish targets and performance meas-
23 ures for such unit; and

1 “(5) direct leadership of such unit to monitor
2 the progress with respect to such targets and per-
3 formance measures.

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

9 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
10 retary may enter into memoranda of understanding with
11 appropriate representatives of the entities specified in
12 paragraph (1) of subsection (c), as necessary, to carry out
13 this section.

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

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

22 “(2) identifies challenges on the sustainment of
23 cross-border IBET operations, including challenges
24 faced by international partners, and planned correc-
25 tive actions;

1 “(3) identifies costs associated with IBET units
2 disaggregated by relevant categories designated at
3 the discretion of the Secretary;

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

8 “(5) identifies and assesses ways IBET, Border
9 Tunnel Task Forces, Border Enforcement Security
10 Task Forces, and the Integrated Cross-Border Mari-
11 time Law Enforcement Operation Program can bet-
12 ter align operations, including interdiction and inves-
13 tigation activities.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 in section 1(b) of the Homeland Security Act of 2002 is
16 amended by inserting after the item relating to section
17 446 the following new item:

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

18 **SEC. 1125. TUNNEL TASK FORCES.**

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

1 **SEC. 1126. PILOT PROGRAM ON USE OF ELECTRO-**
2 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
3 **DER SECURITY OPERATIONS.**

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

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

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

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

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

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

7 **SEC. 1127. FOREIGN MIGRATION ASSISTANCE.**

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

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

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

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

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

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

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

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

15 “(e) EFFECTIVE PERIOD.—The authority provided
16 under this section shall remain in effect until September
17 30, 2026.

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

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

1 “(h) AUTHORIZATION OF APPROPRIATIONS.—In ad-
2 dition to amounts otherwise authorized to be appropriated
3 for such purpose, there is authorized to be appropriated
4 \$50,000,000 for fiscal years 2022 through 2026 to carry
5 out this section.”.

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

“Sec. 439. Foreign migration assistance.”.

10 **SEC. 1128. BIOMETRIC IDENTIFICATION TRANSNATIONAL**
11 **MIGRATION ALERT PROGRAM.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **SEC. 1129. BORDER AND PORT SECURITY TECHNOLOGY IN-**
18 **VESTMENT PLAN.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of the enactment of this section, the Commissioner,
21 in consultation with covered officials and border and port
22 security technology stakeholders, shall submit to the ap-
23 propriate congressional committees a strategic 5-year
24 technology investment plan (in this section to be referred

1 to as the “plan”). The plan may include a classified annex,
2 if appropriate.

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

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

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

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

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

15 (B) are unlawfully present in the United
16 States.

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

22 (5) A description of each planned security-re-
23 lated technology program, including objectives, goals,
24 and timelines for each such program.

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

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

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

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

21 (10) An identification of ways to leverage al-
22 ready-existing acquisition expertise within the Fed-
23 eral Government.

24 (11) A description of the security resources, in-
25 cluding information security resources, that will be

1 required to protect security-related technology from
2 physical or cyber theft, diversion, sabotage, or at-
3 tack.

4 (12) A description of initiatives to—

5 (A) streamline the acquisition process of
6 CBP; and

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

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

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

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

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

1 (1) leverage to the greatest extent possible
2 emerging technological trends, and research and de-
3 velopment trends, within the public and private sec-
4 tors;

5 (2) incorporate input from the private sector,
6 including from border and port security stake-
7 holders, through requests for information, industry
8 day events, and other innovative means consistent
9 with the Federal Acquisition Regulation; and

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

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

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

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

21 (g) UPDATE AND REPORT.—Not later than the date
22 that is two years after the date on which the plan is sub-
23 mitted to the appropriate congressional committees pursu-
24 ant to subsection (a) and biennially thereafter for ten

1 years, the Commissioner shall submit to the appropriate
2 congressional committees—

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

4 (2) a report that includes—

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

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

14 (h) DEFINITIONS.—In this section:

15 (1) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES.—The term “appropriate congressional com-
17 mittees” means—

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

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

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

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

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

3 (C) the Chief Information Officer of the
4 Department.

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

9 **SEC. 1130. COMMERCIAL SOLUTIONS OPENING ACQUISI-**
10 **TION PROGRAM.**

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

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

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

1 (d) GUIDANCE.—The Commissioner, in consultation
2 with the Under Secretary for Management of the Depart-
3 ment, shall—

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

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

8 (e) REPORT.—

9 (1) IN GENERAL.—The Commissioner shall sub-
10 mit to the appropriate congressional committees a
11 report relating to the activities of the program as an
12 addendum to the annual budget request submission
13 of the Commissioner.

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

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

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

20 (i) the program; and

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

23 (C) a recommendation with respect to
24 whether the authority for the program should

1 be extended beyond the date of termination
2 specified in subsection (f).

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

5 (g) **DEFINITIONS.**—In this section:

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

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

12 (A) technology, process, or method, includ-
13 ing research and development; or

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

16 **SEC. 1131. U.S. CUSTOMS AND BORDER PROTECTION TECH-**
17 **NOLOGY UPGRADES.**

18 (a) **SECURE COMMUNICATIONS.**—The Commissioner
19 shall ensure that each CBP officer or agent, if appro-
20 priate, is equipped with a secure radio or other two-way
21 communication device that allows each such officer or
22 agent to communicate—

23 (1) between ports of entry and inspection sta-
24 tions; and

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

3 (b) BORDER SECURITY DEPLOYMENT PROGRAM.—

4 (1) EXPANSION.—Not later than September 30,
5 2023, the Commissioner shall fully implement the
6 Border Security Deployment Program of CBP and
7 expand the integrated surveillance and intrusion de-
8 tection system at land ports of entry along the
9 northern and southern borders of the United States.

10 (2) AUTHORIZATION OF APPROPRIATIONS.—In
11 addition to amounts otherwise authorized to be ap-
12 propriated for such purpose, there is authorized to
13 be appropriated \$33,000,000 for fiscal years 2022
14 and 2023 to carry out paragraph (1).

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

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

23 (2) AUTHORIZATION OF APPROPRIATIONS.—In
24 addition to amounts otherwise authorized to be ap-
25 propriated for such purpose, there is authorized to

1 be appropriated \$125,000,000 for fiscal years 2022
2 and 2023 to carry out paragraph (1).

3 (d) BIOMETRIC EXIT DATA SYSTEM.—

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

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

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

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

22 “(A) an integrated master schedule and
23 cost estimate, including requirements and de-
24 sign, development, operational, and mainte-
25 nance costs of such a system, that takes into

1 account prior reports on such matters issued by
2 the Government Accountability Office and the
3 Department;

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

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

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

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

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

25 “(i) trucking industry;

1 “(ii) airport industry;

2 “(iii) airline industry;

3 “(iv) seaport industry;

4 “(v) travel industry; and

5 “(vi) biometric technology industry;

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

10 “(H) defined metrics of success and mile-
11 stones;

12 “(I) identified risks and mitigation strate-
13 gies to address such risks;

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

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

18 “(L) a list of statutory, regulatory, or ad-
19 ministrative authorities, if any, needed to inte-
20 grate such a system into the operations of the
21 Transportation Security Administration; and

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

1 “(A) the 15 United States airports that
2 support the highest volume of international air
3 travel, as determined by available Federal flight
4 data;

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

9 “(C) the 15 United States land ports of
10 entry that support the highest volume of vehi-
11 cle, pedestrian, and cargo crossings, as deter-
12 mined by available Federal border crossing
13 data.

14 “(b) IMPLEMENTATION.—

15 “(1) PILOT PROGRAM AT LAND PORTS OF
16 ENTRY.—Not later than six months after the date of
17 the enactment of this section, the Secretary, in col-
18 laboration with industry stakeholders specified in
19 subsection (a)(1)(F), shall establish a six-month
20 pilot program to test the biometric exit data system
21 referred to in subsection (a)(1) on nonpedestrian
22 outbound traffic at not fewer than three land ports
23 of entry with significant cross-border traffic, includ-
24 ing at not fewer than two land ports of entry on the
25 southern land border and at least one land port of

1 entry on the northern land border. Such pilot pro-
2 gram may include a consideration of more than one
3 biometric mode, and shall be implemented to deter-
4 mine the following:

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

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

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

12 “(i) legitimate travel and trade;

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

15 “(iii) combating terrorism; and

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

18 “(2) AT LAND PORTS OF ENTRY.—

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

24 “(B) EXTENSION.—The Secretary may ex-
25 tend for a single two-year period the date speci-

1 fied in subparagraph (A) if the Secretary cer-
2 tifies to the Committee on Homeland Security
3 and the Committee on the Judiciary of the
4 House of Representatives and the Committee
5 on Homeland Security and Governmental Af-
6 fairs and the Committee on the Judiciary of the
7 Senate that the 15 land ports of entry that sup-
8 port the highest volume of vehicle, pedestrian,
9 and cargo crossings, as determined by available
10 Federal border crossing data, do not have the
11 physical infrastructure or characteristics to in-
12 stall the systems necessary to implement a bio-
13 metric exit data system. Such extension shall
14 apply only in the case of nonpedestrian out-
15 bound traffic at such land ports of entry.

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

21 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
22 TATION.—The Secretary, in consultation with appropriate
23 industry stakeholders, shall ensure that the collection of
24 biometric data under this section causes the least possible
25 disruption to the movement of people or cargo in air, sea,

1 or land transportation, while fulfilling the goals of improv-
2 ing counterterrorism efforts and identifying visa holders
3 who violate the terms of their visas.

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

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

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

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

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

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

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

7 “(f) SCOPE.—

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

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

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

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

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

10 “(i) FACILITIES.—

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

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

23 “(3) LAND PORTS OF ENTRY.—With respect to
24 each facility at a land port of entry at which the bio-
25 metric exit data system is implemented pursuant to

1 paragraph (1), the space required under such para-
2 graph shall be coordinated with the Administrator of
3 General Services.

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

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

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

18 “(m) CONGRESSIONAL REVIEW.—Not later than 90
19 days after the date of the enactment of this section, the
20 Secretary shall submit to the Committee on Homeland Se-
21 curity and the Committee on the Judiciary of the House
22 of Representatives and the Committee on Homeland Secu-
23 rity and Governmental Affairs and the Committee on the
24 Judiciary of the Senate reports and recommendations re-
25 garding the Directorate of Science and Technology’s Air

1 Entry and Exit Re-Engineering Program and the U.S.
2 Customs and Border Protection entry and exit mobility
3 program demonstrations.

4 “(n) SAVINGS CLAUSE.—Nothing in this section may
5 prohibit the collection of user fees permitted by section
6 13031 of the Consolidated Omnibus Budget Reconciliation
7 Act of 1985 (19 U.S.C. 58c).”.

8 (2) AUTHORIZATION OF APPROPRIATIONS.—

9 There is authorized to be appropriated \$50,000,000
10 for each of fiscal years 2022 and 2023 to carry out
11 section 420 of the Homeland Security Act of 2002,
12 as added by this subsection.

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

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

17 **SEC. 1132. NONINTRUSIVE INSPECTION OPERATIONS.**

18 The Secretary shall fully implement the requirements
19 of the Securing America’s Ports Act (Public Law 116–
20 299; 6 U.S.C. 211 note).

21 **SEC. 1133. HOMELAND SECURITY INVESTIGATIONS INNOVA-**
22 **TION LAB.**

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

1 **“SEC. 463. INNOVATION LAB.**

2 “(a) ESTABLISHMENT.—

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

7 “(2) ASSISTANT DIRECTOR.—The Innovation
8 Lab shall be headed by an Assistant Director, who
9 shall be appointed by the Executive Associate Direc-
10 tor of United States Immigration and Customs En-
11 forcement, Homeland Security Investigations.

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

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

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

24 “(2) Federal facilities, where appropriate.

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

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

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

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

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

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

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

21 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated \$24,700,000 for fiscal
23 year 2022 and \$27,700,000 for fiscal year 2023 to carry
24 out this section.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended by inserting after the item relating to section
4 462 the following new item:

“Sec. 463. Innovation lab.”.

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

6 The head of each appropriate agency may reimburse
7 a State for costs incurred in providing assistance in the
8 construction of the border barrier system or the deploy-
9 ment technology under this Act.

10 **Subtitle B—Personnel**

11 **SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
12 **TECTION PERSONNEL.**

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

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

18 (2) not fewer than 1,200 CBP processing coor-
19 dinators.

20 (b) CBP OFFICERS.—In addition to positions author-
21 ized before the date of the enactment of this section and
22 any existing officer vacancies within CBP as of such date,
23 the Commissioner shall, not later than September 30,
24 2025, hire, train, and assign to duty sufficient CBP offi-
25 cers to maintain an active duty presence of—

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

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

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

11 (d) CBP K–9 UNITS AND HANDLERS.—

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

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

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

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

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

5 (A) unlawfully entering the United States;

6 (B) drug trafficking; or

7 (C) human smuggling; and

8 (3) the remediation of such illicit tunnels.

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

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

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

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

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

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

8 “(a) DEFINITIONS.—In this section—

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

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

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

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

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

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

3 “(1) STATEMENT OF PURPOSE AND LIMITA-
4 TION.—The purpose of this subsection is to allow
5 U.S. Customs and Border Protection to expedi-
6 tiously meet the hiring goals and staffing levels re-
7 quired by section 1134 of the Border Security for
8 America Act. The Secretary shall not use this au-
9 thority beyond meeting the requirements of such sec-
10 tion.

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

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

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

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

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

15 “(ii) that includes—

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

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

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

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

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

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

13 “(A) the Secretary determines that—

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

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

22 “(I) the Federal service; or

23 “(II) for a different position in
24 the Federal service, including a posi-
25 tion in another agency or component

1 of the Department of Homeland Secu-
2 rity; and

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

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

9 “(ii) that includes—

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

14 “(II) the amount of the bonus;
15 and

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

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

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

3 “(5) RULES FOR BONUSES.—

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

6 “(i) paragraph (3) may not exceed
7 100 percent of the annual rate of basic pay
8 of the employee as of the commencement
9 date of the applicable service period; and

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

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

21 “(C) PERIOD OF SERVICE FOR RECRUIT-
22 MENT, RELOCATION, AND RETENTION BO-
23 NUSES.—

24 “(i) A bonus paid to an employee
25 under paragraph (4) may not be based on

1 any period of such service which is the
2 basis for a recruitment or relocation bonus
3 under paragraph (3).

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

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

21 “(d) OPM OVERSIGHT.—

22 “(1) Not later than September 30 of each year,
23 the Secretary shall provide a report to the Director
24 on U.S. Custom and Border Protection’s use of au-
25 thorities provided under subsections (b) and (c). In

1 each report, the Secretary shall provide such infor-
2 mation as the Director determines is appropriate to
3 ensure appropriate use of authorities under such
4 subsections. Each report shall also include an assess-
5 ment of—

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

10 “(B) solving hiring and retention chal-
11 lenges at the agency, including at specific loca-
12 tions;

13 “(C) whether hiring and retention chal-
14 lenges still exist at the agency or specific loca-
15 tions; and

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

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

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

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

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

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

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

23 “(1) EDUCATION OF CBP HIRING OFFICIALS.—
24 Not later than 180 days after the date of the enact-
25 ment of this section, and in conjunction with the

1 Chief Human Capital Officer of the Department of
2 Homeland Security, the Secretary shall develop and
3 implement a strategy to improve the education re-
4 garding hiring and human resources flexibilities (in-
5 cluding hiring and human resources flexibilities for
6 locations in rural or remote areas) for all employees,
7 serving in agency headquarters or field offices, who
8 are involved in the recruitment, hiring, assessment,
9 or selection of candidates for locations in a rural or
10 remote area, as well as the retention of current em-
11 ployees.

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

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

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

23 “(C) The development of pilot programs or
24 other programs, as appropriate, consistent with
25 authorities provided to the Secretary to address

1 identified hiring challenges, including in rural
2 or remote areas.

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

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

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

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

1 “(H) Evaluation of Department of Home-
2 land Security internship programs and the use-
3 fulness of those programs in improving hiring
4 by the Secretary in rural or remote areas.

5 “(3) EVALUATION.—

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

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

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

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

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

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

23 “(iii) other information the Secretary
24 determines relevant.

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

9 “(h) EXERCISE OF AUTHORITY.—

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

16 “(2) DELEGATION.—The Secretary may dele-
17 gate any authority under this section to the Com-
18 missioner.

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

23 “(j) SUNSET.—The authorities under subsections (b)
24 and (c) shall terminate on September 30, 2026. Any bonus
25 to be paid pursuant to subsection (b) that is approved be-

1 fore such date may continue until such bonus has been
2 paid, subject to the conditions specified in this section.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 97 of title 5, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

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

7 **SEC. 1143. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-**
8 **TION.**

9 (a) HIRING FLEXIBILITY.—Section 3 of the Anti-
10 Border Corruption Act of 2010 (6 U.S.C. 221; Public Law
11 111–376) is amended by striking subsection (b) and in-
12 serting the following new subsections:

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

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

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

22 “(B) is authorized by law to engage in or
23 supervise the prevention, detection, investiga-
24 tion, or prosecution of, or the incarceration of

1 any person for, any violation of law, and has
2 statutory powers for arrest or apprehension;

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

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

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

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

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

23 “(C) is not currently under investigation,
24 has not been found to have engaged in criminal
25 activity or serious misconduct, has not resigned

1 from a law enforcement officer position under
2 investigation or in lieu of termination, and has
3 not been dismissed from a law enforcement offi-
4 cer position; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **“SEC. 6. REPORTING.**

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

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

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

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

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

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

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

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

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

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

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

5 **“SEC. 7. DEFINITIONS.**

6 “In this Act:

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

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

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

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

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

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

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

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

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

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

17 “(l) TRAINING AND CONTINUING EDUCATION.—

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

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

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

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

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

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

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

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

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

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

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

4 (2) Air and Marine Operations of CBP.

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

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

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

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

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

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

7 (c) REPORT.—

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

17 (A) the implementation of such subsection

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

19 (B) each relevant workload staffing model.

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

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

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

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

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

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

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

20 **Subtitle C—Grants**

21 **SEC. 1161. OPERATION STONEGARDEN.**

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

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

2 “(a) **ESTABLISHMENT.**—There is established in the
3 Department a program to be known as ‘Operation
4 Stonegarden’, under which the Secretary, acting through
5 the Administrator, shall make grants to eligible law en-
6 forcement agencies, through the State administrative
7 agency, to enhance border security in accordance with this
8 section.

9 “(b) **ELIGIBLE RECIPIENTS.**—To be eligible to re-
10 ceive a grant under this section, a law enforcement agen-
11 cy—

12 “(1) shall be located in—

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

14 or

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

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

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

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

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

4 “(3) any activity permitted for Operation
5 Stonegarden under the most recent fiscal year De-
6 partment of Homeland Security’s Homeland Secu-
7 rity Grant Program Notice of Funding Opportunity;
8 and

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

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

16 “(e) REPORT.—For each of fiscal years 2022 through
17 2026, the Administrator shall submit to the Committee
18 on Homeland Security of the House of Representatives
19 and the Committee on Homeland Security and Govern-
20 mental Affairs of the Senate a report that contains infor-
21 mation on the expenditure of grants made under this sec-
22 tion by each grant recipient.

23 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated \$110,000,000 for each

1 of fiscal years 2022 through 2026 for grants under this
2 section.”.

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

6 “(a) GRANTS AUTHORIZED.—The Secretary, through
7 the Administrator, may award grants under sections 2003,
8 2004, 2009, and 2009A to State, local, and Tribal govern-
9 ments, as appropriate.”.

10 (c) CLERICAL AMENDMENT.—The table of contents
11 in section 1(b) of the Homeland Security Act of 2002 is
12 amended by inserting after the item relating to section
13 2009 the following new item:

“Sec. 2009A. Operation Stonegarden.”.

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

16 **SEC. 1181. BORDER SECURITY CERTIFICATION.**

17 (a) IN GENERAL.—No person may receive a visa
18 under section 4005 of division B of this Act or register
19 for the Redemption Program under subtitle B of title IV
20 of such division , until the date that the Sector Chief from
21 each Border Patrol Sector on the Southern Border
22 achieves and maintain a 90 percent or greater detection
23 and apprehension rate of individuals attempting to ille-
24 gally cross the border in that sector, and makes a certifi-
25 cation to that effect. The governor of the State in which

1 the sector is headquartered shall have 180 days to submit
2 a report to the Border Security Certification Task Force
3 assessing and reviewing this certification. The Border may
4 not be considered certified as secure until all 9 Sector
5 Chiefs and the Border Security Certification Task Force
6 have certified these metrics have been met, and continue
7 maintaining these metrics on annual basis thereafter.

8 (b) BORDER SECURITY CERTIFICATION TASK
9 FORCE.—There is established a Border Security Certifi-
10 cation Task Force, which shall consist of—

11 (1) a representative appointed by each of the
12 following:

13 (A) The Attorney General.

14 (B) The Secretary of State.

15 (C) The Secretary of Defense.

16 (D) The Director of the Central Intel-
17 ligence Agency.

18 (2) A representative appointed by the Governor
19 of each of the following border States:

20 (A) Arizona.

21 (B) California.

22 (C) New Mexico.

23 (D) Texas.

24 (3) A Member of Congress appointed by each of
25 the following:

1 (A) The chair of the Committee on Home-
2 land Security of the House of Representatives.

3 (B) The ranking member of the Committee
4 on Homeland Security of the House of Rep-
5 resentatives.

6 (C) The chair of the Committee on the Ju-
7 diciary of the House of Representatives.

8 (D) The ranking member of the Committee
9 on the Judiciary of the House of Representa-
10 tives.

11 (E) The chair of the Committee on Home-
12 land Security and Governmental Affairs of the
13 Senate.

14 (F) The ranking member of the Committee
15 on Homeland Security and Governmental Af-
16 fairs of the Senate.

17 (G) The chair of the Committee on the Ju-
18 diciary of the Senate.

19 (H) The ranking member of the Com-
20 mittee on the Judiciary of the Senate.

21 (4) A person who served as a senior official of
22 the Department of Homeland Security for any pe-
23 riod from 2017 to 2020.

1 (5) A person who served as a senior official of
2 the Department of Homeland Security for any pe-
3 riod from 2009 to 2016.

4 (6) The Chair and Co-chair of the Homeland
5 Security Advisory Council.

6 (7) Two members from the National Border Se-
7 curity Advisory Committee established in section
8 1119.

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

11 **TITLE II—EMERGENCY PORT OF**
12 **ENTRY PERSONNEL AND IN-**
13 **FRASTRUCTURE FUNDING**

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

15 (a) ADDITIONAL PORTS OF ENTRY.—

16 (1) AUTHORITY.—The Administrator of Gen-
17 eral Services may, subject to section 3307 of title
18 40, United States Code, construct new ports of entry
19 along the northern border and southern border at lo-
20 cations determined by the Secretary.

21 (2) CONSULTATION.—

22 (A) REQUIREMENT TO CONSULT.—The
23 Secretary and the Administrator of General
24 Services shall consult with the Secretary of
25 State, the Secretary of the Interior, the Sec-

1 retary of Agriculture, the Secretary of Trans-
2 portation, and appropriate representatives of
3 State and local governments, and Indian tribes,
4 and property owners in the United States prior
5 to determining a location for any new port of
6 entry constructed pursuant to paragraph (1).

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

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

22 (c) PORT OF ENTRY PRIORITIZATION.—Prior to con-
23 structing any new ports of entry pursuant to subsection
24 (a), the Administrator of General Services shall complete

1 the expansion and modernization of ports of entry pursu-
2 ant to subsection (b) to the extent practicable.

3 (d) NOTIFICATIONS.—

4 (1) RELATING TO NEW PORTS OF ENTRY.—Not
5 later than 15 days after determining the location of
6 any new port of entry for construction pursuant to
7 subsection (a), the Secretary and the Administrator
8 of General Services shall jointly notify the Members
9 of Congress who represent the State or congressional
10 district in which such new port of entry will be lo-
11 cated, as well as the Committee on Homeland Secu-
12 rity and Governmental Affairs, the Committee on
13 Finance, the Committee on Commerce, Science, and
14 Transportation, and the Committee on the Judiciary
15 of the Senate, and the Committee on Homeland Se-
16 curity, the Committee on Ways and Means, the
17 Committee on Transportation and Infrastructure,
18 and the Committee on the Judiciary of the House of
19 Representatives. Such notification shall include in-
20 formation relating to the location of such new port
21 of entry, a description of the need for such new port
22 of entry and associated anticipated benefits, a de-
23 scription of the consultations undertaken by the Sec-
24 retary and the Administrator pursuant to paragraph
25 (2) of such subsection, any actions that will be taken

1 to minimize negative impacts of such new port of
2 entry, and the anticipated time-line for construction
3 and completion of such new port of entry.

4 (2) RELATING TO EXPANSION AND MODERNIZA-
5 TION OF PORTS OF ENTRY.—Not later than 180
6 days after enactment of this Act, the Secretary and
7 the Administrator of General Services shall jointly
8 notify the Committee on Homeland Security and
9 Governmental Affairs, the Committee on Finance,
10 the Committee on Commerce, Science, and Trans-
11 portation, and the Committee on the Judiciary of
12 the Senate, and the Committee on Homeland Secu-
13 rity, the Committee on Ways and Means, the Com-
14 mittee on Transportation and Infrastructure, and
15 the Committee on the Judiciary of the House of
16 Representatives of the ports of entry on the south-
17 ern border that are the subject of expansion or mod-
18 ernization pursuant to subsection (b) and the Sec-
19 retary's and Administrator's plan for expanding or
20 modernizing each such port of entry.

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

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

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

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

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

11 **SEC. 2102. SENSE OF CONGRESS ON COOPERATION BE-**
12 **TWEEN AGENCIES.**

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

16 (b) **SENSE OF CONGRESS.**—It is the sense of Con-
17 gress that, in the best interest of cross-border trade and
18 the agricultural community—

19 (1) any lack of certified personnel for inspection
20 purposes at ports of entry should be addressed by
21 seeking cooperation between agencies and depart-
22 ments of the United States, whether in the form of
23 a memorandum of understanding or through a cer-
24 tification process, whereby additional existing agents
25 are authorized for additional hours to facilitate and

1 expedite the flow of legitimate trade and commerce
2 of perishable goods in a manner consistent with
3 rules of the Department of Agriculture; and

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

9 **SEC. 2103. AUTHORIZATION OF APPROPRIATIONS.**

10 In addition to any amounts otherwise authorized to
11 be appropriated for such purpose, there is authorized to
12 be appropriated \$4,000,000,000 for each of fiscal years
13 2022 through 2026 to carry out this title

14 **TITLE II—VISA SECURITY AND**
15 **INTEGRITY**

16 **SEC. 3101. VISA SECURITY.**

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

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

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

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

3 “(B) RISK-BASED ASSIGNMENTS.—

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

10 “(I) in a risk-based manner;

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

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

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

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

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

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

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

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

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

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

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

10 (b) COUNTERTERROR VETTING AND SCREENING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (f) FUNDING.—

12 (1) ADDITIONAL VISA FEE.—

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

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

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

4 (2) USE OF FEES.—Amounts deposited in the
5 U.S. Immigration and Customs Enforcement ac-
6 count pursuant to paragraph (1) are authorized to
7 be appropriated to the Secretary of Homeland Secu-
8 rity for the funding of the visa security program re-
9 ferred to in such paragraph.

10 **SEC. 3102. ELECTRONIC PASSPORT SCREENING AND BIO-**
11 **METRIC MATCHING.**

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

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

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

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

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

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

3 “(b) APPLICABILITY.—

4 “(1) ELECTRONIC PASSPORT SCREENING.—

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

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

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

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

18 Customs and Border Protection, in collaboration with the
19 Chief Privacy Officer of the Department, shall issue to the
20 Committee on Homeland Security of the House of Rep-
21 resentatives and the Committee on Homeland Security
22 and Governmental Affairs of the Senate an annual report
23 through fiscal year 2026 on the utilization of facial rec-
24 ognition technology and other biometric technology pursu-
25 ant to subsection (a)(2). Each such report shall include

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

14 **“SEC. 420B. CONTINUOUS SCREENING BY U.S. CUSTOMS**
15 **AND BORDER PROTECTION.**

16 “The Commissioner of U.S. Customs and Border
17 Protection shall, in a risk based manner, continuously
18 screen individuals issued any visa, and individuals who are
19 nationals of a program country pursuant to section 217
20 of the Immigration and Nationality Act (8 U.S.C. 1187),
21 who are present, or are expected to arrive within 30 days,
22 in the United States, against the appropriate criminal, na-
23 tional security, and terrorism databases maintained by the
24 Federal Government.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended by inserting after the item relating to section
4 420 the following new items:

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

“Sec. 420B. Continuous screening by U.S. Customs and Border Protection.”.

5 **SEC. 3103. REPORTING OF VISA OVERSTAYS.**

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

8 (1) in subsection (a)—

9 (A) by striking “Attorney General” and in-
10 serting “Secretary of Homeland Security”; and

11 (B) by inserting before the period at the
12 end the following: “, and any additional infor-
13 mation that the Secretary determines necessary
14 for purposes of the report under subsection
15 (b)”; and

16 (2) by amending subsection (b) to read as fol-
17 lows:

18 “(b) ANNUAL REPORT.—Not later than September
19 30, 2023, and not later than September 30 of each year
20 thereafter, the Secretary of Homeland Security shall sub-
21 mit to the Committee on Homeland Security and the Com-
22 mittee on the Judiciary of the House of Representatives
23 and to the Committee on Homeland Security and Govern-
24 mental Affairs and the Committee on the Judiciary of the

1 Senate a report providing, for the preceding fiscal year,
2 numerical estimates (including information on the meth-
3 odology utilized to develop such numerical estimates) of—

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

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

11 “(B) the number of such aliens within each
12 of the classes of nonimmigrant aliens, as well as
13 the number of such aliens within each of the
14 subclasses of such classes of nonimmigrant
15 aliens, as applicable;

16 “(2) for each country, the percentage of the
17 total number of aliens from the country who were
18 present in the United States and were admitted to
19 the United States as nonimmigrants who are de-
20 scribed in subsection (a);

21 “(3) the number of aliens described in sub-
22 section (a) who arrived by land at a port of entry
23 into the United States;

24 “(4) the number of aliens described in sub-
25 section (a) who entered the United States using a

1 border crossing identification card (as such term is
2 defined in section 101(a)(6) of the Immigration and
3 Nationality Act (8 U.S.C. 1101(a)(6))); and

4 “(5) the number of Canadian nationals who en-
5 tered the United States without a visa whose author-
6 ized period of stay in the United States terminated
7 during the previous fiscal year, but who remained in
8 the United States.”.

9 **SEC. 3104. STUDENT AND EXCHANGE VISITOR INFORMA-**
10 **TION SYSTEM VERIFICATION.**

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

20 **SEC. 3105. CANCELLATION OF ADDITIONAL VISAS.**

21 (a) IN GENERAL.—Section 222(g) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

23 (1) in paragraph (1)—

24 (A) by striking “Attorney General” and in-
25 serting “Secretary”; and

1 (B) by inserting “and any other non-
2 immigrant visa issued by the United States that
3 is in the possession of the alien” after “such
4 visa”; and

5 (2) in paragraph (2)(A), by striking “(other
6 than the visa described in paragraph (1)) issued in
7 a consular office located in the country of the alien’s
8 nationality” and inserting “(other than a visa de-
9 scribed in paragraph (1)) issued in a consular office
10 located in the country of the alien’s nationality or
11 foreign residence”.

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

16 **SEC. 3106. VISA INFORMATION SHARING.**

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

19 (1) by striking “issuance or refusal” and insert-
20 ing “issuance, refusal, or revocation”;

21 (2) in paragraph (2), in the matter preceding
22 subparagraph (A), by striking “and on the basis of
23 reciprocity” and all that follows and inserting the
24 following “may provide to a foreign government in-
25 formation in a Department of State computerized

1 visa database and, when necessary and appropriate,
2 other records covered by this section related to infor-
3 mation in such database—”;

4 (3) in paragraph (2)(A)—

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

7 (B) by inserting “(i)” after “for the pur-
8 pose of”; and

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

13 (4) in paragraph (2)(B)—

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

16 (B) by striking “in the database” and in-
17 serting “such database”;

18 (C) by striking “for the purposes” and in-
19 serting “for one of the purposes”; and

20 (D) by striking “or to deny visas to per-
21 sons who would be inadmissible to the United
22 States.” and inserting “; or”; and

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

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

6 (b) **EFFECTIVE DATE.**—The amendments made by
7 subsection (a) shall take effect 60 days after the date of
8 the enactment of this Act.

9 **SEC. 3107. FRAUD PREVENTION.**

10 (a) **PROSPECTIVE ANALYTICS TECHNOLOGY.**—

11 (1) **PLAN FOR IMPLEMENTATION.**—Not later
12 than 180 days after the date of the enactment of
13 this Act, the Secretary of Homeland Security shall
14 submit to the Committee on the Judiciary of the
15 House of Representatives and the Committee on the
16 Judiciary of the Senate a plan for the use of ad-
17 vanced analytics software to ensure the proactive de-
18 tection of fraud in immigration benefits applications
19 and petitions and to ensure that any such applicant
20 or petitioner does not pose a threat to national secu-
21 rity.

22 (2) **IMPLEMENTATION OF PLAN.**—Not later
23 than 1 year after the date of the submission of the
24 plan under paragraph (1), the Secretary of Home-
25 land Security shall begin implementation of the plan.

1 (b) BENEFITS FRAUD ASSESSMENT.—

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

7 (A) Petitions by VAWA self-petitioners (as
8 such term is defined in section 101(a)(51) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1101(a)(51)).

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

15 (C) Applications for visas or status under
16 section 101(a)(27)(J) of such Act (8 U.S.C.
17 1101(a)(27)(J)).

18 (D) Applications for visas or status under
19 section 101(a)(15)(U) of such Act (8 U.S.C.
20 1101(a)(15)(U)).

21 (E) Petitions for visas or status under sec-
22 tion 101(a)(27)(C) of such Act (8 U.S.C.
23 1101(a)(27)(C)).

24 (F) Applications for asylum under section
25 208 of such Act (8 U.S.C. 1158).

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

3 (H) Petitions for visas or status under sec-
4 tion 201(b) of such Act (8 U.S.C. 1151(b)).

5 (2) REPORTING ON FINDINGS.—Not later than
6 30 days after the completion of each benefit fraud
7 assessment under paragraph (1), the Secretary shall
8 submit to the Committee on the Judiciary of the
9 House of Representatives and the Committee on the
10 Judiciary of the Senate such assessment and rec-
11 ommendations on how to reduce the occurrence of
12 instances of fraud identified by the assessment.

13 **SEC. 3108. VISA INELIGIBILITY FOR SPOUSES AND CHIL-**
14 **DREN OF DRUG TRAFFICKERS.**

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

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

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

23 **SEC. 3109. DNA TESTING.**

24 Section 222(b) of the Immigration and Nationality
25 Act (8 U.S.C. 1202(b)) is amended by inserting “Where

1 considered necessary, by the consular officer or immigra-
2 tion official, to establish family relationships, the immi-
3 grant shall provide DNA evidence of such a relationship
4 in accordance with procedures established for submitting
5 such evidence. The Secretary and the Secretary of State
6 may, in consultation, issue regulations to require DNA
7 evidence to establish family relationship, from applicants
8 for certain visa classifications.” after “and a certified copy
9 of all other records or documents concerning him or his
10 case which may be required by the consular officer.”.

11 **SEC. 3110. DNA COLLECTION CONSISTENT WITH FEDERAL**
12 **LAW.**

13 Not later than 14 days after the date of the enact-
14 ment of this section, the Secretary shall ensure and certify
15 to the Committee on Homeland Security of the House of
16 Representatives and the Committee on Homeland Security
17 and Governmental Affairs of the Senate that CBP is fully
18 compliant with the DNA Fingerprint Act of 2005 (Public
19 Law 109–162; 119 Stat. 3084) at all border facilities that
20 process adults, including as part of a family unit, in the
21 custody of CBP at the border.

1 **TITLE III—TRANSNATIONAL**
2 **CRIMINAL ORGANIZATION IL-**
3 **LICIT SPOTTER PREVENTION**
4 **AND ELIMINATION**

5 **SEC. 4101. SHORT TITLE.**

6 This title may be cited as the “Transnational Crimi-
7 nal Organization Illicit Spotter Prevention and Elimi-
8 nation Act”.

9 **SEC. 4102. ILLICIT SPOTTING.**

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

12 “(f) Any person who knowingly transmits, by any
13 means, to another person the location, movement, or ac-
14 tivities of any officer or agent of a Federal, State, local,
15 or tribal law enforcement agency with the intent to further
16 a criminal offense under the immigration laws (as such
17 term is defined in section 101 of the Immigration and Na-
18 tionality Act), the Controlled Substances Act, or the Con-
19 trolled Substances Import and Export Act, or that relates
20 to agriculture or monetary instruments shall be fined
21 under this title or imprisoned not more than 10 years, or
22 both.”.

1 **SEC. 4103. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
2 **DER, AND CUSTOMS CONTROLS.**

3 (a) BRINGING IN AND HARBORING OF CERTAIN
4 ALIENS.—Section 274(a) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1324(a)) is amended—

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

9 (2) by adding at the end the following:

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

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

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

24 (2) by adding at the end the following: “In the
25 case of a person convicted of an offense under this
26 section, the sentence otherwise provided for may be

1 increased by up to 10 years if that person, at the
2 time of the offense, used or carried a firearm or
3 who, in furtherance of any such crime, possessed a
4 firearm.”.

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

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

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

12 (2) by adding at the end the following:

13 “(2) If the injury or depredation was made or
14 attempted against any fence, barrier, sensor, cam-
15 era, or other physical or electronic device deployed
16 by the Federal Government to control the border or
17 a port of entry or otherwise was intended to con-
18 struct, excavate, or make any structure intended to
19 defeat, circumvent, or evade any such fence, barrier,
20 sensor camera, or other physical or electronic device
21 deployed by the Federal Government to control the
22 border or a port of entry, by a fine under this title
23 or imprisonment for not more than 15 years, or
24 both.

1 “(3) If the injury or depredation was described
2 under paragraph (2) and, in the commission of the
3 offense, the offender used or carried a firearm or, in
4 furtherance of any such offense, possessed a firearm,
5 by a fine under this title or imprisonment for not
6 more than 20 years, or both.”.

7 **SEC. 4104. REPORT ON SMUGGLING.**

8 The Secretary of Homeland Security, in coordination
9 with the heads of appropriate Federal agencies, shall de-
10 velop a regularly updated intelligence driven analysis that
11 includes—

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

15 (2) tactics, techniques, and procedures used by
16 human smuggling organizations to exploit border se-
17 curity vulnerabilities to facilitate such smuggling ac-
18 tivities across the border;

19 (3) the methods and use of technology to orga-
20 nize and encourage irregular migration and under-
21 mine border security; and

22 (4) any other information the Secretary deter-
23 mines appropriate.

1 **TITLE IV—BORDER SECURITY**
2 **FUNDING**

3 **SEC. 5101. BORDER SECURITY FUNDING.**

4 (a) FUNDING.—In addition to amounts otherwise
5 made available by this Act or any other provision of law,
6 there is hereby appropriated to the “U.S. Customs and
7 Border Protection—Procurement, Construction, and Im-
8 provements” account, out of any amounts in the Treasury
9 not otherwise appropriated, \$25,000,000,000, to be avail-
10 able for—

11 (1) a full border infrastructure system, includ-
12 ing enhanced physical barriers and associated detec-
13 tion technology, roads, and lighting; and

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

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

20 (B) new roads and improvements to exist-
21 ing roads;

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

1 (D) aircraft, aircraft-based sensors and as-
2 sociated technology, vessels, spare parts, and
3 equipment to maintain such assets;

4 (E) a biometric entry and exit system; and

5 (F) family residential centers.

6 (b) AVAILABILITY OF BORDER BARRIER SYSTEM
7 FUNDS.—

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

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

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

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

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

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

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

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

24 (H) \$1,746,000,000 shall become available
25 October 1, 2029; and

1 (I) \$1,718,000,000 shall become available
2 October 1, 2030.

3 (c) AVAILABILITY OF BORDER SECURITY INVEST-
4 MENT FUNDS.—

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

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

9 (B) \$1,850,000,000 shall become available
10 October 1, 2023;

11 (C) \$1,950,000,000 shall become available
12 October 1, 2024;

13 (D) \$1,925,000,000 shall become available
14 October 1, 2025; and

15 (E) \$550,000,000 shall become available
16 October 1, 2026.

17 (d) MULTI-YEAR SPENDING PLAN.—The Secretary
18 of Homeland Security shall include in the budget justifica-
19 tion materials submitted in support of the President's an-
20 nual budget request for fiscal year 2023 (as submitted
21 under section 1105(a) of title 31, United States Code) a
22 multi-year spending plan for the amounts made available
23 under subsection (a).

24 (e) QUARTERLY BRIEFING REQUIREMENT.—Begin-
25 ning not later than 180 days after the date of the enact-

1 ment of this Act, and quarterly thereafter, the Commis-
2 sioner of U.S. Customs and Border Protection shall brief
3 the Committees on Appropriations of the Senate and the
4 House of Representatives regarding activities under and
5 progress made in carrying out this section.

6 **SEC. 5102. EXCLUSION FROM PAYGO SCORECARDS.**

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

10 **SEC. 5103. FUNDING MATTERS.**

11 (a) IMMIGRATION INFRASTRUCTURE FUND.—

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

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

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

22 “(b) TRANSFER TO TRUST FUND OF AMOUNTS
23 EQUIVALENT TO CERTAIN TAXES.—There are hereby ap-
24 propriated to the Immigration Infrastructure Fund
25 amounts equivalent to the taxes received in the Treasury

1 under section 4004 of division B of the Dignity for Immi-
2 grants while Guarding our Nation to Ignite and Deliver
3 the American Dream Act paid or incurred by taxpayers
4 who are aliens and participants in the Dignity Program
5 under title IV of division B of the Dignity for Immigrants
6 while Guarding our Nation to Ignite and Deliver the
7 American Dream Act.

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

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions for subchapter A of chapter 98 of such Code
15 is amended by adding at the end the following new
16 item:

“Sec. 9512. [_____ Trust Fund].”.

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

20 **TITLE V—MANDATORY E-VERIFY**

21 **SEC. 6101. SHORT TITLE.**

22 This title may be cited as the “Legal Workforce Act”.

1 **SEC. 6102. EMPLOYMENT ELIGIBILITY VERIFICATION**
2 **PROCESS.**

3 (a) IN GENERAL.—Section 274A(b) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1324a(b)) is amended
5 to read as follows:

6 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
7 PROCESS.—

8 “(1) NEW HIRES, RECRUITMENT, AND REFER-
9 RAL.—The requirements referred to in paragraphs
10 (1)(B) and (3) of subsection (a) are, in the case of
11 a person or other entity hiring, recruiting, or refer-
12 ring an individual for employment in the United
13 States, the following:

14 “(A) ATTESTATION AFTER EXAMINATION
15 OF DOCUMENTATION.—

16 “(i) ATTESTATION.—During the
17 verification period (as defined in subpara-
18 graph (E)), the person or entity shall at-
19 test, under penalty of perjury and on a
20 form, including electronic and telephonic
21 formats, designated or established by the
22 Secretary by regulation not later than 6
23 months after the date of the enactment of
24 the Legal Workforce Act, that it has
25 verified that the individual is not an unau-
26 thorized alien by—

1 “(I) obtaining from the indi-
2 vidual the individual’s social security
3 account number or United States
4 passport number and recording the
5 number on the form (if the individual
6 claims to have been issued such a
7 number), and, if the individual does
8 not attest to United States nationality
9 under subparagraph (B), obtaining
10 such identification or authorization
11 number established by the Depart-
12 ment of Homeland Security for the
13 alien as the Secretary of Homeland
14 Security may specify, and recording
15 such number on the form; and

16 “(II) examining—

17 “(aa) a document relating to
18 the individual presenting it de-
19 scribed in clause (ii); or

20 “(bb) a document relating to
21 the individual presenting it de-
22 scribed in clause (iii) and a docu-
23 ment relating to the individual
24 presenting it described in clause
25 (iv).

1 “(ii) DOCUMENTS EVIDENCING EM-
2 PLOYMENT AUTHORIZATION AND ESTAB-
3 LISHING IDENTITY.—A document de-
4 scribed in this subparagraph is an individ-
5 ual’s—

6 “(I) unexpired United States
7 passport or passport card;

8 “(II) unexpired permanent resi-
9 dent card that contains a photograph;

10 “(III) unexpired employment au-
11 thorization card that contains a pho-
12 tograph;

13 “(IV) in the case of a non-
14 immigrant alien authorized to work
15 for a specific employer incident to sta-
16 tus, a foreign passport with Form I-
17 94 or Form I-94A, or other docu-
18 mentation as designated by the Sec-
19 retary specifying the alien’s non-
20 immigrant status as long as the pe-
21 riod of status has not yet expired and
22 the proposed employment is not in
23 conflict with any restrictions or limita-
24 tions identified in the documentation;

1 “(V) passport from the Fed-
2 erated States of Micronesia (FSM) or
3 the Republic of the Marshall Islands
4 (RMI) with Form I-94 or Form I-
5 94A, or other documentation as des-
6 ignated by the Secretary, indicating
7 nonimmigrant admission under the
8 Compact of Free Association Between
9 the United States and the FSM or
10 RMI; or

11 “(VI) other document designated
12 by the Secretary of Homeland Secu-
13 rity, if the document—

14 “(aa) contains a photograph
15 of the individual and biometric
16 identification data from the indi-
17 vidual and such other personal
18 identifying information relating
19 to the individual as the Secretary
20 of Homeland Security finds, by
21 regulation, sufficient for purposes
22 of this clause;

23 “(bb) is evidence of author-
24 ization of employment in the
25 United States; and

1 “(cc) contains security fea-
2 tures to make it resistant to tam-
3 pering, counterfeiting, and fraud-
4 ulent use.

5 “(iii) DOCUMENTS EVIDENCING EM-
6 PLOYMENT AUTHORIZATION.—A document
7 described in this subparagraph is an indi-
8 vidual’s social security account number
9 card (other than such a card which speci-
10 fies on the face that the issuance of the
11 card does not authorize employment in the
12 United States).

13 “(iv) DOCUMENTS ESTABLISHING
14 IDENTITY OF INDIVIDUAL.—A document
15 described in this subparagraph is—

16 “(I) an individual’s unexpired
17 State issued driver’s license or identi-
18 fication card if it contains a photo-
19 graph and information such as name,
20 date of birth, gender, height, eye
21 color, and address;

22 “(II) an individual’s unexpired
23 U.S. military identification card;

24 “(III) an individual’s unexpired
25 Native American tribal identification

1 document issued by a tribal entity rec-
2 ognized by the Bureau of Indian Af-
3 fairs; or

4 “(IV) in the case of an individual
5 under 18 years of age, a parent or
6 legal guardian’s attestation under
7 penalty of law as to the identity and
8 age of the individual.

9 “(v) AUTHORITY TO PROHIBIT USE OF
10 CERTAIN DOCUMENTS.—If the Secretary of
11 Homeland Security finds, by regulation,
12 that any document described in clause (i),
13 (ii), or (iii) as establishing employment au-
14 thorization or identity does not reliably es-
15 tablish such authorization or identity or is
16 being used fraudulently to an unacceptable
17 degree, the Secretary may prohibit or place
18 conditions on its use for purposes of this
19 paragraph.

20 “(vi) SIGNATURE.—Such attestation
21 may be manifested by either a handwritten
22 or electronic signature.

23 “(B) INDIVIDUAL ATTESTATION OF EM-
24 PLOYMENT AUTHORIZATION.—During the veri-
25 fication period (as defined in subparagraph

1 (E)), the individual shall attest, under penalty
2 of perjury on the form designated or established
3 for purposes of subparagraph (A), that the indi-
4 vidual is a citizen or national of the United
5 States, an alien lawfully admitted for perma-
6 nent residence, or an alien who is authorized
7 under this Act or by the Secretary of Homeland
8 Security to be hired, recruited, or referred for
9 such employment. Such attestation may be
10 manifested by either a handwritten or electronic
11 signature. The individual shall also provide that
12 individual's social security account number or
13 United States passport number (if the indi-
14 vidual claims to have been issued such a num-
15 ber), and, if the individual does not attest to
16 United States nationality under this subpara-
17 graph, such identification or authorization num-
18 ber established by the Department of Homeland
19 Security for the alien as the Secretary may
20 specify.

21 “(C) RETENTION OF VERIFICATION FORM
22 AND VERIFICATION.—

23 “(i) IN GENERAL.—After completion
24 of such form in accordance with subpara-

1 graphs (A) and (B), the person or entity
2 shall—

3 “(I) retain a paper, microfiche,
4 microfilm, or electronic version of the
5 form and make it available for inspec-
6 tion by officers of the Department of
7 Homeland Security, the Department
8 of Justice, or the Department of
9 Labor during a period beginning on
10 the date of the recruiting or referral
11 of the individual, or, in the case of the
12 hiring of an individual, the date on
13 which the verification is completed,
14 and ending—

15 “(aa) in the case of the re-
16 cruiting or referral of an indi-
17 vidual, 3 years after the date of
18 the recruiting or referral; and

19 “(bb) in the case of the hir-
20 ing of an individual, the later of
21 3 years after the date the verifi-
22 cation is completed or one year
23 after the date the individual’s
24 employment is terminated; and

1 “(II) during the verification pe-
2 riod (as defined in subparagraph (E)),
3 make an inquiry, as provided in sub-
4 section (d), using the verification sys-
5 tem to seek verification of the identity
6 and employment eligibility of an indi-
7 vidual.

8 “(ii) CONFIRMATION.—

9 “(I) CONFIRMATION RE-
10 CEIVED.—If the person or other entity
11 receives an appropriate confirmation
12 of an individual’s identity and work
13 eligibility under the verification sys-
14 tem within the time period specified,
15 the person or entity shall record on
16 the form an appropriate code that is
17 provided under the system and that
18 indicates a final confirmation of such
19 identity and work eligibility of the in-
20 dividual.

21 “(II) TENTATIVE NONCONFIRMA-
22 TION RECEIVED.—If the person or
23 other entity receives a tentative non-
24 confirmation of an individual’s iden-
25 tity or work eligibility under the

1 verification system within the time pe-
2 riod specified, the person or entity
3 shall so inform the individual for
4 whom the verification is sought. If the
5 individual does not contest the non-
6 confirmation within the time period
7 specified, the nonconfirmation shall be
8 considered final. The person or entity
9 shall then record on the form an ap-
10 propriate code which has been pro-
11 vided under the system to indicate a
12 final nonconfirmation. If the indi-
13 vidual does contest the nonconfirma-
14 tion, the individual shall utilize the
15 process for secondary verification pro-
16 vided under subsection (d). The non-
17 confirmation will remain tentative
18 until a final confirmation or noncon-
19 firmation is provided by the verifica-
20 tion system within the time period
21 specified. In no case shall an employer
22 terminate employment of an individual
23 because of a failure of the individual
24 to have identity and work eligibility
25 confirmed under this section until a

1 nonconfirmation becomes final. Noth-
2 ing in this clause shall apply to a ter-
3 mination of employment for any rea-
4 son other than because of such a fail-
5 ure. In no case shall an employer re-
6 scind the offer of employment to an
7 individual because of a failure of the
8 individual to have identity and work
9 eligibility confirmed under this sub-
10 section until a nonconfirmation be-
11 comes final. Nothing in this subclause
12 shall apply to a rescission of the offer
13 of employment for any reason other
14 than because of such a failure.

15 “(III) FINAL CONFIRMATION OR
16 NONCONFIRMATION RECEIVED.—If a
17 final confirmation or nonconfirmation
18 is provided by the verification system
19 regarding an individual, the person or
20 entity shall record on the form an ap-
21 propriate code that is provided under
22 the system and that indicates a con-
23 firmation or nonconfirmation of iden-
24 tity and work eligibility of the indi-
25 vidual.

1 “(IV) EXTENSION OF TIME.—If
2 the person or other entity in good
3 faith attempts to make an inquiry
4 during the time period specified and
5 the verification system has registered
6 that not all inquiries were received
7 during such time, the person or entity
8 may make an inquiry in the first sub-
9 sequent working day in which the
10 verification system registers that it
11 has received all inquiries. If the
12 verification system cannot receive in-
13 quiries at all times during a day, the
14 person or entity merely has to assert
15 that the entity attempted to make the
16 inquiry on that day for the previous
17 sentence to apply to such an inquiry,
18 and does not have to provide any ad-
19 ditional proof concerning such inquiry.

20 “(V) CONSEQUENCES OF NON-
21 CONFIRMATION.—

22 “(aa) TERMINATION OR NO-
23 TIFICATION OF CONTINUED EM-
24 PLOYMENT.—If the person or
25 other entity has received a final

1 nonconfirmation regarding an in-
2 dividual, the person or entity
3 may terminate employment of the
4 individual (or decline to recruit
5 or refer the individual). If the
6 person or entity does not termi-
7 nate employment of the indi-
8 vidual or proceeds to recruit or
9 refer the individual, the person or
10 entity shall notify the Secretary
11 of Homeland Security of such
12 fact through the verification sys-
13 tem or in such other manner as
14 the Secretary may specify.

15 “(bb) FAILURE TO NO-
16 TIFY.—If the person or entity
17 fails to provide notice with re-
18 spect to an individual as required
19 under item (aa), the failure is
20 deemed to constitute a violation
21 of subsection (a)(1)(A) with re-
22 spect to that individual.

23 “(VI) CONTINUED EMPLOYMENT
24 AFTER FINAL NONCONFIRMATION.—If
25 the person or other entity continues to

1 employ (or to recruit or refer) an indi-
2 vidual after receiving final noncon-
3 firmation, a rebuttable presumption is
4 created that the person or entity has
5 violated subsection (a)(1)(A).

6 “(D) EFFECTIVE DATES OF NEW PROCE-
7 DURES.—

8 “(i) HIRING.—Except as provided in
9 clause (iii), the provisions of this para-
10 graph shall apply to a person or other enti-
11 ty hiring an individual for employment in
12 the United States as follows:

13 “(I) With respect to employers
14 having 10,000 or more employees in
15 the United States on the date of the
16 enactment of the Legal Workforce
17 Act, on the date that is 6 months
18 after the date of the enactment of
19 such Act.

20 “(II) With respect to employers
21 having 500 or more employees in the
22 United States, but less than 10,000
23 employees in the United States, on
24 the date of the enactment of the
25 Legal Workforce Act, on the date that

1 is 12 months after the date of the en-
2 actment of such Act.

3 “(III) With respect to employers
4 having 20 or more employees in the
5 United States, but less than 500 em-
6 ployees in the United States, on the
7 date of the enactment of the Legal
8 Workforce Act, on the date that is 18
9 months after the date of the enact-
10 ment of such Act.

11 “(IV) With respect to employers
12 having one or more employees in the
13 United States, but less than 20 em-
14 ployees in the United States, on the
15 date of the enactment of the Legal
16 Workforce Act, on the date that is 24
17 months after the date of the enact-
18 ment of such Act.

19 “(ii) RECRUITING AND REFERRING.—
20 Except as provided in clause (iii), the pro-
21 visions of this paragraph shall apply to a
22 person or other entity recruiting or refer-
23 ring an individual for employment in the
24 United States on the date that is 12

1 months after the date of the enactment of
2 the Legal Workforce Act.

3 “(iii) AGRICULTURAL LABOR OR SERV-
4 ICES.—With respect to an employee per-
5 forming agricultural labor or services, this
6 paragraph shall not apply with respect to
7 the verification of the employee until the
8 date that is 30 months after the date of
9 the enactment of the Legal Workforce Act.
10 For purposes of the preceding sentence,
11 the term ‘agricultural labor or services’ has
12 the meaning given such term by the Sec-
13 retary of Agriculture in regulations and in-
14 cludes agricultural labor as defined in sec-
15 tion 3121(g) of the Internal Revenue Code
16 of 1986, agriculture as defined in section
17 3(f) of the Fair Labor Standards Act of
18 1938 (29 U.S.C. 203(f)), the handling,
19 planting, drying, packing, packaging, proc-
20 essing, freezing, or grading prior to deliv-
21 ery for storage of any agricultural or horti-
22 cultural commodity in its unmanufactured
23 state, all activities required for the prepa-
24 ration, processing or manufacturing of a
25 product of agriculture (as such term is de-

1 fined in such section 3(f)) for further dis-
2 tribution, and activities similar to all the
3 foregoing as they relate to fish or shellfish
4 facilities. An employee described in this
5 clause shall not be counted for purposes of
6 clause (i).

7 “(iv) EXTENSIONS.—Upon request by
8 an employer having 50 or fewer employees,
9 the Secretary shall allow a one-time 6-
10 month extension of the effective date set
11 out in this subparagraph applicable to such
12 employer. Such request shall be made to
13 the Secretary and shall be made prior to
14 such effective date.

15 “(v) TRANSITION RULE.—Subject to
16 paragraph (4), the following shall apply to
17 a person or other entity hiring, recruiting,
18 or referring an individual for employment
19 in the United States until the effective
20 date or dates applicable under clauses (i)
21 through (iii):

22 “(I) This subsection, as in effect
23 before the enactment of the Legal
24 Workforce Act.

1 “(II) Subtitle A of title IV of the
2 Illegal Immigration Reform and Im-
3 migrant Responsibility Act of 1996 (8
4 U.S.C. 1324a note), as in effect be-
5 fore the effective date in section
6 6107(c) of the Legal Workforce Act.

7 “(III) Any other provision of
8 Federal law requiring the person or
9 entity to participate in the E-Verify
10 Program described in section 403(a)
11 of the Illegal Immigration Reform and
12 Immigrant Responsibility Act of 1996
13 (8 U.S.C. 1324a note), as in effect be-
14 fore the effective date in section
15 6107(c) of the Legal Workforce Act,
16 including Executive Order 13465 (8
17 U.S.C. 1324a note; relating to Gov-
18 ernment procurement).

19 “(E) VERIFICATION PERIOD DEFINED.—

20 “(i) IN GENERAL.—For purposes of
21 this paragraph:

22 “(I) In the case of recruitment or
23 referral, the term ‘verification period’
24 means the period ending on the date
25 recruiting or referring commences.

1 “(II) In the case of hiring, the
2 term ‘verification period’ means the
3 period beginning on the date on which
4 an offer of employment is extended
5 and ending on the date that is three
6 business days after the date of hire,
7 except as provided in clause (iii). The
8 offer of employment may be condi-
9 tioned in accordance with clause (ii).

10 “(ii) JOB OFFER MAY BE CONDI-
11 TIONAL.—A person or other entity may
12 offer a prospective employee an employ-
13 ment position that is conditioned on final
14 verification of the identity and employment
15 eligibility of the employee using the proce-
16 dures established under this paragraph.

17 “(iii) SPECIAL RULE.—Notwithstand-
18 ing clause (i)(II), in the case of an alien
19 who is authorized for employment and who
20 provides evidence from the Social Security
21 Administration that the alien has applied
22 for a social security account number, the
23 verification period ends three business days
24 after the alien receives the social security
25 account number.

1 “(2) REVERIFICATION FOR INDIVIDUALS WITH
2 LIMITED WORK AUTHORIZATION.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), a person or entity shall
5 make an inquiry, as provided in subsection (d),
6 using the verification system to seek reverifica-
7 tion of the identity and employment eligibility
8 of all individuals with a limited period of work
9 authorization employed by the person or entity
10 during the three business days after the date on
11 which the employee’s work authorization expires
12 as follows:

13 “(i) With respect to employers having
14 10,000 or more employees in the United
15 States on the date of the enactment of the
16 Legal Workforce Act, beginning on the
17 date that is 6 months after the date of the
18 enactment of such Act.

19 “(ii) With respect to employers having
20 500 or more employees in the United
21 States, but less than 10,000 employees in
22 the United States, on the date of the en-
23 actment of the Legal Workforce Act, be-
24 ginning on the date that is 12 months

1 after the date of the enactment of such
2 Act.

3 “(iii) With respect to employers hav-
4 ing 20 or more employees in the United
5 States, but less than 500 employees in the
6 United States, on the date of the enact-
7 ment of the Legal Workforce Act, begin-
8 ning on the date that is 18 months after
9 the date of the enactment of such Act.

10 “(iv) With respect to employers hav-
11 ing one or more employees in the United
12 States, but less than 20 employees in the
13 United States, on the date of the enact-
14 ment of the Legal Workforce Act, begin-
15 ning on the date that is 24 months after
16 the date of the enactment of such Act.

17 “(B) AGRICULTURAL LABOR OR SERV-
18 ICES.—With respect to an employee performing
19 agricultural labor or services, or an employee
20 recruited or referred by a farm labor contractor
21 (as defined in section 3 of the Migrant and Sea-
22 sonal Agricultural Worker Protection Act (29
23 U.S.C. 1801)), subparagraph (A) shall not
24 apply with respect to the reverification of the
25 employee until the date that is 30 months after

1 the date of the enactment of the Legal Work-
2 force Act. For purposes of the preceding sen-
3 tence, the term ‘agricultural labor or services’
4 has the meaning given such term by the Sec-
5 retary of Agriculture in regulations and in-
6 cludes agricultural labor as defined in section
7 3121(g) of the Internal Revenue Code of 1986,
8 agriculture as defined in section 3(f) of the
9 Fair Labor Standards Act of 1938 (29 U.S.C.
10 203(f)), the handling, planting, drying, packing,
11 packaging, processing, freezing, or grading
12 prior to delivery for storage of any agricultural
13 or horticultural commodity in its unmanufac-
14 tured state, all activities required for the prepa-
15 ration, processing, or manufacturing of a prod-
16 uct of agriculture (as such term is defined in
17 such section 3(f)) for further distribution, and
18 activities similar to all the foregoing as they re-
19 late to fish or shellfish facilities. An employee
20 described in this subparagraph shall not be
21 counted for purposes of subparagraph (A).

22 “(C) REVERIFICATION.—Paragraph
23 (1)(C)(ii) shall apply to reverifications pursuant
24 to this paragraph on the same basis as it ap-

1 plies to verifications pursuant to paragraph (1),
2 except that employers shall—

3 “(i) use a form designated or estab-
4 lished by the Secretary by regulation for
5 purposes of this paragraph; and

6 “(ii) retain a paper, microfiche, micro-
7 film, or electronic version of the form and
8 make it available for inspection by officers
9 of the Department of Homeland Security,
10 the Department of Justice, or the Depart-
11 ment of Labor during the period beginning
12 on the date the reverification commences
13 and ending on the date that is the later of
14 3 years after the date of such reverification
15 or 1 year after the date the individual’s
16 employment is terminated.

17 “(3) PREVIOUSLY HIRED INDIVIDUALS.—

18 “(A) ON A MANDATORY BASIS FOR CER-
19 TAIN EMPLOYEES.—

20 “(i) IN GENERAL.—Not later than the
21 date that is 6 months after the date of the
22 enactment of the Legal Workforce Act, an
23 employer shall make an inquiry, as pro-
24 vided in subsection (d), using the
25 verification system to seek verification of

1 the identity and employment eligibility of
2 any individual described in clause (ii) em-
3 ployed by the employer whose employment
4 eligibility has not been verified under the
5 E-Verify Program described in section
6 403(a) of the Illegal Immigration Reform
7 and Immigrant Responsibility Act of 1996
8 (8 U.S.C. 1324a note).

9 “(ii) INDIVIDUALS DESCRIBED.—An
10 individual described in this clause is any of
11 the following:

12 “(I) An employee of any unit of
13 a Federal, State, or local government.

14 “(II) An employee who requires a
15 Federal security clearance working in
16 a Federal, State, or local government
17 building, a military base, a nuclear
18 energy site, a weapons site, or an air-
19 port or other facility that requires
20 workers to carry a Transportation
21 Worker Identification Credential
22 (TWIC).

23 “(III) An employee assigned to
24 perform work in the United States

1 under a Federal contract, except that
2 this subclause—

3 “(aa) is not applicable to in-
4 dividuals who have a clearance
5 under Homeland Security Presi-
6 dential Directive 12 (HSPD 12
7 clearance), are administrative or
8 overhead personnel, or are work-
9 ing solely on contracts that pro-
10 vide Commercial Off The Shelf
11 goods or services as set forth by
12 the Federal Acquisition Regu-
13 latory Council, unless they are
14 subject to verification under sub-
15 clause (II); and

16 “(bb) only applies to con-
17 tracts over the simple acquisition
18 threshold as defined in section
19 2.101 of title 48, Code of Federal
20 Regulations.

21 “(B) ON A MANDATORY BASIS FOR MUL-
22 TIPLE USERS OF SAME SOCIAL SECURITY AC-
23 COUNT NUMBER.—In the case of an employer
24 who is required by this subsection to use the
25 verification system described in subsection (d),

1 or has elected voluntarily to use such system,
2 the employer shall make inquiries to the system
3 in accordance with the following:

4 “(i) The Commissioner of Social Secu-
5 rity shall notify annually employees (at the
6 employee address listed on the Wage and
7 Tax Statement) who submit a social secu-
8 rity account number to which more than
9 one employer reports income and for which
10 there is a pattern of unusual multiple use.
11 The notification letter shall identify the
12 number of employers to which income is
13 being reported as well as sufficient infor-
14 mation notifying the employee of the proc-
15 ess to contact the Social Security Adminis-
16 tration Fraud Hotline if the employee be-
17 lieves the employee’s identity may have
18 been stolen. The notice shall not share in-
19 formation protected as private, in order to
20 avoid any recipient of the notice from
21 being in the position to further commit or
22 begin committing identity theft.

23 “(ii) If the person to whom the social
24 security account number was issued by the
25 Social Security Administration has been

1 identified and confirmed by the Commis-
2 sioner, and indicates that the social secu-
3 rity account number was used without
4 their knowledge, the Secretary and the
5 Commissioner shall lock the social security
6 account number for employment eligibility
7 verification purposes and shall notify the
8 employers of the individuals who wrong-
9 fully submitted the social security account
10 number that the employee may not be
11 work eligible.

12 “(iii) Each employer receiving such
13 notification of an incorrect social security
14 account number under clause (ii) shall use
15 the verification system described in sub-
16 section (d) to check the work eligibility sta-
17 tus of the applicable employee within 10
18 business days of receipt of the notification.

19 “(C) ON A VOLUNTARY BASIS.—Subject to
20 paragraph (2), and subparagraphs (A) through
21 (C) of this paragraph, beginning on the date
22 that is 30 days after the date of the enactment
23 of the Legal Workforce Act, an employer may
24 make an inquiry, as provided in subsection (d),
25 using the verification system to seek verification

1 of the identity and employment eligibility of any
2 individual employed by the employer. If an em-
3 ployer chooses voluntarily to seek verification of
4 any individual employed by the employer, the
5 employer shall seek verification of all individ-
6 uals employed at the same geographic location
7 or, at the option of the employer, all individuals
8 employed within the same job category, as the
9 employee with respect to whom the employer
10 seeks voluntarily to use the verification system.
11 An employer's decision about whether or not
12 voluntarily to seek verification of its current
13 workforce under this subparagraph may not be
14 considered by any government agency in any
15 proceeding, investigation, or review provided for
16 in this Act.

17 “(D) VERIFICATION.—Paragraph
18 (1)(C)(ii) shall apply to verifications pursuant
19 to this paragraph on the same basis as it ap-
20 plies to verifications pursuant to paragraph (1),
21 except that employers shall—

22 “(i) use a form designated or estab-
23 lished by the Secretary by regulation for
24 purposes of this paragraph; and

1 “(ii) retain a paper, microfiche, micro-
2 film, or electronic version of the form and
3 make it available for inspection by officers
4 of the Department of Homeland Security,
5 the Department of Justice, or the Depart-
6 ment of Labor during the period beginning
7 on the date the verification commences and
8 ending on the date that is the later of 3
9 years after the date of such verification or
10 1 year after the date the individual’s em-
11 ployment is terminated.

12 “(4) EARLY COMPLIANCE.—

13 “(A) FORMER E-VERIFY REQUIRED USERS,
14 INCLUDING FEDERAL CONTRACTORS.—Notwith-
15 standing the deadlines in paragraphs (1) and
16 (2), beginning on the date of the enactment of
17 the Legal Workforce Act, the Secretary is au-
18 thorized to commence requiring employers re-
19 quired to participate in the E-Verify Program
20 described in section 403(a) of the Illegal Immi-
21 gration Reform and Immigrant Responsibility
22 Act of 1996 (8 U.S.C. 1324a note), including
23 employers required to participate in such pro-
24 gram by reason of Federal acquisition laws
25 (and regulations promulgated under those laws,

1 including the Federal Acquisition Regulation),
2 to commence compliance with the requirements
3 of this subsection (and any additional require-
4 ments of such Federal acquisition laws and reg-
5 ulation) in lieu of any requirement to partici-
6 pate in the E-Verify Program.

7 “(B) FORMER E-VERIFY VOLUNTARY
8 USERS AND OTHERS DESIRING EARLY COMPLI-
9 ANCE.—Notwithstanding the deadlines in para-
10 graphs (1) and (2), beginning on the date of
11 the enactment of the Legal Workforce Act, the
12 Secretary shall provide for the voluntary com-
13 pliance with the requirements of this subsection
14 by employers voluntarily electing to participate
15 in the E-Verify Program described in section
16 403(a) of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996 (8 U.S.C.
18 1324a note) before such date, as well as by
19 other employers seeking voluntary early compli-
20 ance.

21 “(5) COPYING OF DOCUMENTATION PER-
22 MITTED.—Notwithstanding any other provision of
23 law, the person or entity may copy a document pre-
24 sented by an individual pursuant to this subsection
25 and may retain the copy, but only (except as other-

1 wise permitted under law) for the purpose of com-
2 plying with the requirements of this subsection.

3 “(6) LIMITATION ON USE OF FORMS.—A form
4 designated or established by the Secretary of Home-
5 land Security under this subsection and any infor-
6 mation contained in or appended to such form, may
7 not be used for purposes other than for enforcement
8 of this Act and any other provision of Federal crimi-
9 nal law.

10 “(7) GOOD FAITH COMPLIANCE.—

11 “(A) IN GENERAL.—Except as otherwise
12 provided in this subsection, a person or entity
13 is considered to have complied with a require-
14 ment of this subsection notwithstanding a tech-
15 nical or procedural failure to meet such require-
16 ment if there was a good faith attempt to com-
17 ply with the requirement.

18 “(B) EXCEPTION IF FAILURE TO CORRECT
19 AFTER NOTICE.—Subparagraph (A) shall not
20 apply if—

21 “(i) the failure is not de minimus;

22 “(ii) the Secretary of Homeland Secu-
23 rity has explained to the person or entity
24 the basis for the failure and why it is not
25 de minimus;

1 “(iii) the person or entity has been
2 provided a period of not less than 30 cal-
3 endar days (beginning after the date of the
4 explanation) within which to correct the
5 failure; and

6 “(iv) the person or entity has not cor-
7 rected the failure voluntarily within such
8 period.

9 “(C) EXCEPTION FOR PATTERN OR PRAC-
10 TICE VIOLATORS.—Subparagraph (A) shall not
11 apply to a person or entity that has or is engag-
12 ing in a pattern or practice of violations of sub-
13 section (a)(1)(A) or (a)(2).

14 “(8) SINGLE EXTENSION OF DEADLINES UPON
15 CERTIFICATION.—In a case in which the Secretary
16 of Homeland Security has certified to the Congress
17 that the employment eligibility verification system
18 required under subsection (d) will not be fully oper-
19 ational by the date that is 6 months after the date
20 of the enactment of the Legal Workforce Act, each
21 deadline established under this section for an em-
22 ployer to make an inquiry using such system shall
23 be extended by 6 months. No other extension of such
24 a deadline shall be made except as authorized under
25 paragraph (1)(D)(iv).”.

1 (b) DATE OF HIRE.—Section 274A(h) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1324a(h)) is
3 amended by adding at the end the following:

4 “(4) DEFINITION OF DATE OF HIRE.—As used
5 in this section, the term ‘date of hire’ means the
6 date of actual commencement of employment for
7 wages or other remuneration, unless otherwise speci-
8 fied.”.

9 **SEC. 6103. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
10 **TEM.**

11 Section 274A(d) of the Immigration and Nationality
12 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

13 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
14 TEM.—

15 “(1) IN GENERAL.—Patterned on the employ-
16 ment eligibility confirmation system established
17 under section 404 of the Illegal Immigration Reform
18 and Immigrant Responsibility Act of 1996 (8 U.S.C.
19 1324a note), the Secretary of Homeland Security
20 shall establish and administer a verification system
21 through which the Secretary (or a designee of the
22 Secretary, which may be a nongovernmental enti-
23 ty)—

24 “(A) responds to inquiries made by per-
25 sons at any time through a toll-free telephone

1 line and other toll-free electronic media con-
2 cerning an individual's identity and whether the
3 individual is authorized to be employed; and

4 “(B) maintains records of the inquiries
5 that were made, of verifications provided (or
6 not provided), and of the codes provided to in-
7 quirers as evidence of their compliance with
8 their obligations under this section.

9 “(2) INITIAL RESPONSE.—The verification sys-
10 tem shall provide confirmation or a tentative non-
11 confirmation of an individual's identity and employ-
12 ment eligibility within 3 working days of the initial
13 inquiry. If providing confirmation or tentative non-
14 confirmation, the verification system shall provide an
15 appropriate code indicating such confirmation or
16 such nonconfirmation.

17 “(3) SECONDARY CONFIRMATION PROCESS IN
18 CASE OF TENTATIVE NONCONFIRMATION.—In cases
19 of tentative nonconfirmation, the Secretary shall
20 specify, in consultation with the Commissioner of
21 Social Security, an available secondary verification
22 process to confirm the validity of information pro-
23 vided and to provide a final confirmation or noncon-
24 firmation not later than 10 working days after the
25 date on which the notice of the tentative noncon-

1 firmation is received by the employee. The Secretary,
2 in consultation with the Commissioner, may extend
3 this deadline once on a case-by-case basis for a pe-
4 riod of 10 working days, and if the time is extended,
5 shall document such extension within the verification
6 system. The Secretary, in consultation with the
7 Commissioner, shall notify the employee and em-
8 ployer of such extension. The Secretary, in consulta-
9 tion with the Commissioner, shall create a standard
10 process of such extension and notification and shall
11 make a description of such process available to the
12 public. When final confirmation or nonconfirmation
13 is provided, the verification system shall provide an
14 appropriate code indicating such confirmation or
15 nonconfirmation.

16 “(4) DESIGN AND OPERATION OF SYSTEM.—
17 The verification system shall be designed and oper-
18 ated—

19 “(A) to maximize its reliability and ease of
20 use by persons and other entities consistent
21 with insulating and protecting the privacy and
22 security of the underlying information;

23 “(B) to respond to all inquiries made by
24 such persons and entities on whether individ-
25 uals are authorized to be employed and to reg-

1 ister all times when such inquiries are not re-
2 ceived;

3 “(C) with appropriate administrative, tech-
4 nical, and physical safeguards to prevent unau-
5 thorized disclosure of personal information;

6 “(D) to have reasonable safeguards against
7 the system’s resulting in unlawful discrimina-
8 tory practices based on national origin or citi-
9 zenship status, including—

10 “(i) the selective or unauthorized use
11 of the system to verify eligibility; or

12 “(ii) the exclusion of certain individ-
13 uals from consideration for employment as
14 a result of a perceived likelihood that addi-
15 tional verification will be required, beyond
16 what is required for most job applicants;

17 “(E) to maximize the prevention of iden-
18 tity theft use in the system; and

19 “(F) to limit the subjects of verification to
20 the following individuals:

21 “(i) Individuals hired, referred, or re-
22 cruited, in accordance with paragraph (1)
23 or (4) of subsection (b).

1 “(ii) Employees and prospective em-
2 ployees, in accordance with paragraph (1),
3 (2), (3), or (4) of subsection (b).

4 “(iii) Individuals seeking to confirm
5 their own employment eligibility on a vol-
6 untary basis.

7 “(5) RESPONSIBILITIES OF COMMISSIONER OF
8 SOCIAL SECURITY.—As part of the verification sys-
9 tem, the Commissioner of Social Security, in con-
10 sultation with the Secretary of Homeland Security
11 (and any designee of the Secretary selected to estab-
12 lish and administer the verification system), shall es-
13 tablish a reliable, secure method, which, within the
14 time periods specified under paragraphs (2) and (3),
15 compares the name and social security account num-
16 ber provided in an inquiry against such information
17 maintained by the Commissioner in order to validate
18 (or not validate) the information provided regarding
19 an individual whose identity and employment eligi-
20 bility must be confirmed, the correspondence of the
21 name and number, and whether the individual has
22 presented a social security account number that is
23 not valid for employment. The Commissioner shall
24 not disclose or release social security information
25 (other than such confirmation or nonconfirmation)

1 under the verification system except as provided for
2 in this section or section 205(c)(2)(I) of the Social
3 Security Act.

4 “(6) RESPONSIBILITIES OF SECRETARY OF
5 HOMELAND SECURITY.—As part of the verification
6 system, the Secretary of Homeland Security (in con-
7 sultation with any designee of the Secretary selected
8 to establish and administer the verification system),
9 shall establish a reliable, secure method, which, with-
10 in the time periods specified under paragraphs (2)
11 and (3), compares the name and alien identification
12 or authorization number (or any other information
13 as determined relevant by the Secretary) which are
14 provided in an inquiry against such information
15 maintained or accessed by the Secretary in order to
16 validate (or not validate) the information provided,
17 the correspondence of the name and number, wheth-
18 er the alien is authorized to be employed in the
19 United States, or to the extent that the Secretary
20 determines to be feasible and appropriate, whether
21 the records available to the Secretary verify the
22 identity or status of a national of the United States.

23 “(7) UPDATING INFORMATION.—The Commis-
24 sioner of Social Security and the Secretary of Home-
25 land Security shall update their information in a

1 manner that promotes the maximum accuracy and
2 shall provide a process for the prompt correction of
3 erroneous information, including instances in which
4 it is brought to their attention in the secondary
5 verification process described in paragraph (3).

6 “(8) LIMITATION ON USE OF THE
7 VERIFICATION SYSTEM AND ANY RELATED SYS-
8 TEMS.—

9 “(A) NO NATIONAL IDENTIFICATION
10 CARD.—Nothing in this section shall be con-
11 strued to authorize, directly or indirectly, the
12 issuance or use of national identification cards
13 or the establishment of a national identification
14 card.

15 “(B) CRITICAL INFRASTRUCTURE.—The
16 Secretary may authorize or direct any person or
17 entity responsible for granting access to, pro-
18 tecting, securing, operating, administering, or
19 regulating part of the critical infrastructure (as
20 defined in section 1016(e) of the Critical Infra-
21 structure Protection Act of 2001 (42 U.S.C.
22 5195c(e))) to use the verification system to the
23 extent the Secretary determines that such use
24 will assist in the protection of the critical infra-
25 structure.

1 “(9) REMEDIES.—If an individual alleges that
2 the individual would not have been dismissed from
3 a job but for an error of the verification mechanism,
4 the individual may seek compensation only through
5 the mechanism of the Federal Tort Claims Act, and
6 injunctive relief to correct such error. No class ac-
7 tion may be brought under this paragraph.”.

8 **SEC. 6104. RECRUITMENT, REFERRAL, AND CONTINUATION**
9 **OF EMPLOYMENT.**

10 (a) ADDITIONAL CHANGES TO RULES FOR RECRUIT-
11 MENT, REFERRAL, AND CONTINUATION OF EMPLOY-
12 MENT.—Section 274A(a) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1324a(a)) is amended—

14 (1) in paragraph (1)(A), by striking “for a fee”;
15 (2) in paragraph (1), by amending subpara-
16 graph (B) to read as follows:

17 “(B) to hire, continue to employ, or to re-
18 cruit or refer for employment in the United
19 States an individual without complying with the
20 requirements of subsection (b).”; and

21 (3) in paragraph (2), by striking “after hiring
22 an alien for employment in accordance with para-
23 graph (1),” and inserting “after complying with
24 paragraph (1),”.

1 (b) DEFINITION.—Section 274A(h) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
3 by section 6102(b) of this Act, is further amended by add-
4 ing at the end the following:

5 “(5) DEFINITION OF RECRUIT OR REFER.—As
6 used in this section, the term ‘refer’ means the act
7 of sending or directing a person who is in the United
8 States or transmitting documentation or information
9 to another, directly or indirectly, with the intent of
10 obtaining employment in the United States for such
11 person. Only persons or entities referring for remu-
12 neration (whether on a retainer or contingency
13 basis) are included in the definition, except that
14 union hiring halls that refer union members or non-
15 union individuals who pay union membership dues
16 are included in the definition whether or not they re-
17 ceive remuneration, as are labor service entities or
18 labor service agencies, whether public, private, for-
19 profit, or nonprofit, that refer, dispatch, or other-
20 wise facilitate the hiring of laborers for any period
21 of time by a third party. As used in this section, the
22 term ‘recruit’ means the act of soliciting a person
23 who is in the United States, directly or indirectly,
24 and referring the person to another with the intent
25 of obtaining employment for that person. Only per-

1 sons or entities referring for remuneration (whether
2 on a retainer or contingency basis) are included in
3 the definition, except that union hiring halls that
4 refer union members or nonunion individuals who
5 pay union membership dues are included in this defi-
6 nition whether or not they receive remuneration, as
7 are labor service entities or labor service agencies,
8 whether public, private, for-profit, or nonprofit that
9 recruit, dispatch, or otherwise facilitate the hiring of
10 laborers for any period of time by a third party.”.

11 (c) **EFFECTIVE DATE.**—The amendments made by
12 this section shall take effect on the date that is 1 year
13 after the date of the enactment of this Act, except that
14 the amendments made by subsection (a) shall take effect
15 6 months after the date of the enactment of this Act inso-
16 far as such amendments relate to continuation of employ-
17 ment.

18 **SEC. 6105. GOOD FAITH DEFENSE.**

19 Section 274A(a)(3) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
21 follows:

22 “(3) **GOOD FAITH DEFENSE.**—

23 “(A) **DEFENSE.**—An employer (or person
24 or entity that hires, employs, recruits, or refers
25 (as defined in subsection (h)(5)), or is otherwise

1 obligated to comply with this section) who es-
2 tablishes that it has complied in good faith with
3 the requirements of subsection (b)—

4 “(i) shall not be liable to a job appli-
5 cant, an employee, the Federal Govern-
6 ment, or a State or local government,
7 under Federal, State, or local criminal or
8 civil law for any employment-related action
9 taken with respect to a job applicant or
10 employee in good-faith reliance on informa-
11 tion provided through the system estab-
12 lished under subsection (d); and

13 “(ii) has established compliance with
14 its obligations under subparagraphs (A)
15 and (B) of paragraph (1) and subsection
16 (b) absent a showing by the Secretary of
17 Homeland Security, by clear and con-
18 vincing evidence, that the employer had
19 knowledge that an employee is an unau-
20 thorized alien.

21 “(B) MITIGATION ELEMENT.—For pur-
22 poses of subparagraph (A)(i), if an employer
23 proves by a preponderance of the evidence that
24 the employer uses a reasonable, secure, and es-
25 tablished technology to authenticate the identity

1 of the new employee, that fact shall be taken
2 into account for purposes of determining good
3 faith use of the system established under sub-
4 section (d).

5 “(C) FAILURE TO SEEK AND OBTAIN
6 VERIFICATION.—Subject to the effective dates
7 and other deadlines applicable under subsection
8 (b), in the case of a person or entity in the
9 United States that hires, or continues to em-
10 ploy, an individual, or recruits or refers an indi-
11 vidual for employment, the following require-
12 ments apply:

13 “(i) FAILURE TO SEEK
14 VERIFICATION.—

15 “(I) IN GENERAL.—If the person
16 or entity has not made an inquiry,
17 under the mechanism established
18 under subsection (d) and in accord-
19 ance with the timeframes established
20 under subsection (b), seeking
21 verification of the identity and work
22 eligibility of the individual, the de-
23 fense under subparagraph (A) shall
24 not be considered to apply with re-

1 spect to any employment, except as
2 provided in subclause (II).

3 “(II) SPECIAL RULE FOR FAIL-
4 URE OF VERIFICATION MECHANISM.—
5 If such a person or entity in good
6 faith attempts to make an inquiry in
7 order to qualify for the defense under
8 subparagraph (A) and the verification
9 mechanism has registered that not all
10 inquiries were responded to during the
11 relevant time, the person or entity can
12 make an inquiry until the end of the
13 first subsequent working day in which
14 the verification mechanism registers
15 no nonresponses and qualify for such
16 defense.

17 “(ii) FAILURE TO OBTAIN
18 VERIFICATION.—If the person or entity
19 has made the inquiry described in clause
20 (i)(I) but has not received an appropriate
21 verification of such identity and work eligi-
22 bility under such mechanism within the
23 time period specified under subsection
24 (d)(2) after the time the verification in-
25 quiry was received, the defense under sub-

1 paragraph (A) shall not be considered to
2 apply with respect to any employment after
3 the end of such time period.”.

4 **SEC. 6106. PREEMPTION AND STATES' RIGHTS.**

5 Section 274A(h)(2) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
7 follows:

8 “(2) PREEMPTION.—

9 “(A) SINGLE, NATIONAL POLICY.—The
10 provisions of this section preempt any State or
11 local law, ordinance, policy, or rule, including
12 any criminal or civil fine or penalty structure,
13 insofar as they may now or hereafter relate to
14 the hiring, continued employment, or status
15 verification for employment eligibility purposes,
16 of unauthorized aliens.

17 “(B) STATE ENFORCEMENT OF FEDERAL
18 LAW.—

19 “(i) BUSINESS LICENSING.—A State,
20 locality, municipality, or political subdivi-
21 sion may exercise its authority over busi-
22 ness licensing and similar laws as a pen-
23 alty for failure to use the verification sys-
24 tem described in subsection (d) to verify

1 employment eligibility when and as re-
2 quired under subsection (b).

3 “(ii) GENERAL RULES.—A State, at
4 its own cost, may enforce the provisions of
5 this section, but only insofar as such State
6 follows the Federal regulations imple-
7 menting this section, applies the Federal
8 penalty structure set out in this section,
9 and complies with all Federal rules and
10 guidance concerning implementation of this
11 section. Such State may collect any fines
12 assessed under this section. An employer
13 may not be subject to enforcement, includ-
14 ing audit and investigation, by both a Fed-
15 eral agency and a State for the same viola-
16 tion under this section. Whichever entity,
17 the Federal agency or the State, is first to
18 initiate the enforcement action, has the
19 right of first refusal to proceed with the
20 enforcement action. The Secretary must
21 provide copies of all guidance, training,
22 and field instructions provided to Federal
23 officials implementing the provisions of
24 this section to each State.”.

1 **SEC. 6107. REPEAL.**

2 (a) IN GENERAL.—Subtitle A of title IV of the Illegal
3 Immigration Reform and Immigrant Responsibility Act of
4 1996 (8 U.S.C. 1324a note) is repealed.

5 (b) REFERENCES.—Any reference in any Federal
6 law, Executive order, rule, regulation, or delegation of au-
7 thority, or any document of, or pertaining to, the Depart-
8 ment of Homeland Security, Department of Justice, or the
9 Social Security Administration, to the employment eligi-
10 bility confirmation system established under section 404
11 of the Illegal Immigration Reform and Immigrant Respon-
12 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
13 refer to the employment eligibility confirmation system es-
14 tablished under section 274A(d) of the Immigration and
15 Nationality Act, as amended by section 6103 of this Act.

16 (c) EFFECTIVE DATE.—This section shall take effect
17 on the date that is 30 months after the date of the enact-
18 ment of this Act.

19 (d) CLERICAL AMENDMENT.—The table of sections,
20 in section 1(d) of the Illegal Immigration Reform and Im-
21 migrant Responsibility Act of 1996, is amended by strik-
22 ing the items relating to subtitle A of title IV.

23 **SEC. 6108. PENALTIES.**

24 Section 274A of the Immigration and Nationality Act
25 (8 U.S.C. 1324a) is amended—

26 (1) in subsection (e)(1)—

1 (A) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”; and

4 (B) in subparagraph (D), by striking
5 “Service” and inserting “Department of Home-
6 land Security”;

7 (2) in subsection (e)(4)—

8 (A) in subparagraph (A), in the matter be-
9 fore clause (i), by inserting “, subject to para-
10 graph (10),” after “in an amount”;

11 (B) in subparagraph (A)(i), by striking
12 “not less than \$250 and not more than
13 \$2,000” and inserting “not less than \$2,500
14 and not more than \$5,000”;

15 (C) in subparagraph (A)(ii), by striking
16 “not less than \$2,000 and not more than
17 \$5,000” and inserting “not less than \$5,000
18 and not more than \$10,000”;

19 (D) in subparagraph (A)(iii), by striking
20 “not less than \$3,000 and not more than
21 \$10,000” and inserting “not less than \$10,000
22 and not more than \$25,000”; and

23 (E) by moving the margin of the continu-
24 ation text following subparagraph (B) two ems

1 to the left and by amending subparagraph (B)
2 to read as follows:

3 “(B) may require the person or entity to
4 take such other remedial action as is appro-
5 priate.”;

6 (3) in subsection (e)(5)—

7 (A) in the paragraph heading, strike “PA-
8 PERWORK”;

9 (B) by inserting “, subject to paragraphs
10 (10) through (12),” after “in an amount”;

11 (C) by striking “\$100” and inserting
12 “\$1,000”;

13 (D) by striking “\$1,000” and inserting
14 “\$25,000”; and

15 (E) by adding at the end the following:
16 “Failure by a person or entity to utilize the em-
17 ployment eligibility verification system as re-
18 quired by law, or providing information to the
19 system that the person or entity knows or rea-
20 sonably believes to be false, shall be treated as
21 a violation of subsection (a)(1)(A).”;

22 (4) by adding at the end of subsection (e) the
23 following:

24 “(10) EXEMPTION FROM PENALTY FOR GOOD
25 FAITH VIOLATION.—In the case of imposition of a

1 civil penalty under paragraph (4)(A) with respect to
2 a violation of subsection (a)(1)(A) or (a)(2) for hir-
3 ing or continuation of employment or recruitment or
4 referral by person or entity and in the case of impo-
5 sition of a civil penalty under paragraph (5) for a
6 violation of subsection (a)(1)(B) for hiring or re-
7 cruitment or referral by a person or entity, the pen-
8 alty otherwise imposed may be waived or reduced if
9 the violator establishes that the violator acted in
10 good faith.

11 “(11) MITIGATION ELEMENT.—For purposes of
12 paragraph (4), the size of the business shall be
13 taken into account when assessing the level of civil
14 money penalty.

15 “(12) AUTHORITY TO DEBAR EMPLOYERS FOR
16 CERTAIN VIOLATIONS.—

17 “(A) IN GENERAL.—If a person or entity
18 is determined by the Secretary of Homeland Se-
19 curity to be a repeat violator of paragraph
20 (1)(A) or (2) of subsection (a), or is convicted
21 of a crime under this section, such person or
22 entity may be considered for debarment from
23 the receipt of Federal contracts, grants, or co-
24 operative agreements in accordance with the de-
25 barment standards and pursuant to the debar-

1 ment procedures set forth in the Federal Acqui-
2 sition Regulation.

3 “(B) DOES NOT HAVE CONTRACT, GRANT,
4 AGREEMENT.—If the Secretary of Homeland
5 Security or the Attorney General wishes to have
6 a person or entity considered for debarment in
7 accordance with this paragraph, and such a
8 person or entity does not hold a Federal con-
9 tract, grant, or cooperative agreement, the Sec-
10 retary or Attorney General shall refer the mat-
11 ter to the Administrator of General Services to
12 determine whether to list the person or entity
13 on the List of Parties Excluded from Federal
14 Procurement, and if so, for what duration and
15 under what scope.

16 “(C) HAS CONTRACT, GRANT, AGREE-
17 MENT.—If the Secretary of Homeland Security
18 or the Attorney General wishes to have a per-
19 son or entity considered for debarment in ac-
20 cordance with this paragraph, and such person
21 or entity holds a Federal contract, grant, or co-
22 operative agreement, the Secretary or Attorney
23 General shall advise all agencies or departments
24 holding a contract, grant, or cooperative agree-
25 ment with the person or entity of the Govern-

1 ment’s interest in having the person or entity
2 considered for debarment, and after soliciting
3 and considering the views of all such agencies
4 and departments, the Secretary or Attorney
5 General may refer the matter to any appro-
6 priate lead agency to determine whether to list
7 the person or entity on the List of Parties Ex-
8 cluded from Federal Procurement, and if so, for
9 what duration and under what scope.

10 “(D) REVIEW.—Any decision to debar a
11 person or entity in accordance with this para-
12 graph shall be reviewable pursuant to part 9.4
13 of the Federal Acquisition Regulation.

14 “(13) OFFICE FOR STATE AND LOCAL GOVERN-
15 MENT COMPLAINTS.—The Secretary of Homeland
16 Security shall establish an office—

17 “(A) to which State and local government
18 agencies may submit information indicating po-
19 tential violations of subsection (a), (b), or
20 (g)(1) that were generated in the normal course
21 of law enforcement or the normal course of
22 other official activities in the State or locality;

23 “(B) that is required to indicate to the
24 complaining State or local agency within five
25 business days of the filing of such a complaint

1 by identifying whether the Secretary will fur-
2 ther investigate the information provided;

3 “(C) that is required to investigate those
4 complaints filed by State or local government
5 agencies that, on their face, have a substantial
6 probability of validity;

7 “(D) that is required to notify the com-
8 plaining State or local agency of the results of
9 any such investigation conducted; and

10 “(E) that is required to report to the Con-
11 gress annually the number of complaints re-
12 ceived under this paragraph, the States and lo-
13 calities that filed such complaints, and the reso-
14 lution of the complaints investigated by the Sec-
15 retary.”; and

16 (5) by amending paragraph (1) of subsection (f)
17 to read as follows:

18 “(1) CRIMINAL PENALTY.—Any person or enti-
19 ty which engages in a pattern or practice of viola-
20 tions of subsection (a) (1) or (2) shall be fined not
21 more than \$5,000 for each unauthorized alien with
22 respect to which such a violation occurs, imprisoned
23 for not more than 18 months, or both, notwith-
24 standing the provisions of any other Federal law re-
25 lating to fine levels.”.

1 **SEC. 6109. FRAUD AND MISUSE OF DOCUMENTS.**

2 Section 1546(b) of title 18, United States Code, is
3 amended—

4 (1) in paragraph (1), by striking “identification
5 document,” and inserting “identification document
6 or document meant to establish work authorization
7 (including the documents described in section
8 274A(b) of the Immigration and Nationality Act),”;
9 and

10 (2) in paragraph (2), by striking “identification
11 document” and inserting “identification document or
12 document meant to establish work authorization (in-
13 cluding the documents described in section 274A(b)
14 of the Immigration and Nationality Act),”.

15 **SEC. 6110. PROTECTION OF SOCIAL SECURITY ADMINIS-**
16 **TRATION PROGRAMS.**

17 (a) **FUNDING UNDER AGREEMENT.**—Effective for
18 fiscal years beginning on or after October 1, 2025, the
19 Commissioner of Social Security and the Secretary of
20 Homeland Security shall enter into and maintain an
21 agreement which shall—

22 (1) provide funds to the Commissioner for the
23 full costs of the responsibilities of the Commissioner
24 under section 274A(d) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1324a(d)), as amended by

1 section 6103 of this Act, including (but not limited
2 to)—

3 (A) acquiring, installing, and maintaining
4 technological equipment and systems necessary
5 for the fulfillment of the responsibilities of the
6 Commissioner under such section 274A(d), but
7 only that portion of such costs that are attrib-
8 utable exclusively to such responsibilities; and

9 (B) responding to individuals who contest
10 a tentative nonconfirmation provided by the em-
11 ployment eligibility verification system estab-
12 lished under such section;

13 (2) provide such funds annually in advance of
14 the applicable quarter based on estimating method-
15 ology agreed to by the Commissioner and the Sec-
16 retary (except in such instances where the delayed
17 enactment of an annual appropriation may preclude
18 such quarterly payments); and

19 (3) require an annual accounting and reconcili-
20 ation of the actual costs incurred and the funds pro-
21 vided under the agreement, which shall be reviewed
22 by the Inspectors General of the Social Security Ad-
23 ministration and the Department of Homeland Secu-
24 rity.

1 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
2 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
3 which the agreement required under subsection (a) for any
4 fiscal year beginning on or after October 1, 2025, has not
5 been reached as of October 1 of such fiscal year, the latest
6 agreement between the Commissioner and the Secretary
7 of Homeland Security providing for funding to cover the
8 costs of the responsibilities of the Commissioner under
9 section 274A(d) of the Immigration and Nationality Act
10 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
11 terim basis for such fiscal year until such time as an
12 agreement required under subsection (a) is subsequently
13 reached, except that the terms of such interim agreement
14 shall be modified by the Director of the Office of Manage-
15 ment and Budget to adjust for inflation and any increase
16 or decrease in the volume of requests under the employ-
17 ment eligibility verification system. In any case in which
18 an interim agreement applies for any fiscal year under this
19 subsection, the Commissioner and the Secretary shall, not
20 later than October 1 of such fiscal year, notify the Com-
21 mittee on Ways and Means, the Committee on the Judici-
22 ary, and the Committee on Appropriations of the House
23 of Representatives and the Committee on Finance, the
24 Committee on the Judiciary, and the Committee on Ap-
25 propriations of the Senate of the failure to reach the

1 agreement required under subsection (a) for such fiscal
2 year. Until such time as the agreement required under
3 subsection (a) has been reached for such fiscal year, the
4 Commissioner and the Secretary shall, not later than the
5 end of each 90-day period after October 1 of such fiscal
6 year, notify such Committees of the status of negotiations
7 between the Commissioner and the Secretary in order to
8 reach such an agreement.

9 **SEC. 6111. FRAUD PREVENTION.**

10 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
11 **NUMBERS.**—The Secretary of Homeland Security, in con-
12 sultation with the Commissioner of Social Security, shall
13 establish a program in which social security account num-
14 bers that have been identified to be subject to unusual
15 multiple use in the employment eligibility verification sys-
16 tem established under section 274A(d) of the Immigration
17 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
18 section 6103 of this Act, or that are otherwise suspected
19 or determined to have been compromised by identity fraud
20 or other misuse, shall be blocked from use for such system
21 purposes unless the individual using such number is able
22 to establish, through secure and fair additional security
23 procedures, that the individual is the legitimate holder of
24 the number.

1 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
2 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
3 Homeland Security, in consultation with the Commis-
4 sioner of Social Security, shall establish a program which
5 shall provide a reliable, secure method by which victims
6 of identity fraud and other individuals may suspend or
7 limit the use of their social security account number or
8 other identifying information for purposes of the employ-
9 ment eligibility verification system established under sec-
10 tion 274A(d) of the Immigration and Nationality Act (8
11 U.S.C. 1324a(d)), as amended by section 6103 of this Act.
12 The Secretary may implement the program on a limited
13 pilot program basis before making it fully available to all
14 individuals.

15 (c) ALLOWING PARENTS TO PREVENT THEFT OF
16 THEIR CHILD’S IDENTITY.—The Secretary of Homeland
17 Security, in consultation with the Commissioner of Social
18 Security, shall establish a program which shall provide a
19 reliable, secure method by which parents or legal guard-
20 ians may suspend or limit the use of the social security
21 account number or other identifying information of a
22 minor under their care for the purposes of the employment
23 eligibility verification system established under 274A(d) of
24 the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
25 as amended by section 6103 of this Act. The Secretary

1 may implement the program on a limited pilot program
2 basis before making it fully available to all individuals.

3 **SEC. 6112. USE OF EMPLOYMENT ELIGIBILITY**
4 **VERIFICATION PHOTO TOOL.**

5 An employer who uses the photo matching tool used
6 as part of the E-Verify System shall match the photo tool
7 photograph to both the photograph on the identity or em-
8 ployment eligibility document provided by the employee
9 and to the face of the employee submitting the document
10 for employment verification purposes.

11 **SEC. 6113. IDENTITY AUTHENTICATION EMPLOYMENT ELI-**
12 **GIBILITY VERIFICATION PILOT PROGRAMS.**

13 Not later than 24 months after the date of the enact-
14 ment of this Act, the Secretary of Homeland Security,
15 after consultation with the Commissioner of Social Secu-
16 rity and the Director of the National Institute of Stand-
17 ards and Technology, shall establish by regulation not less
18 than 2 Identity Authentication Employment Eligibility
19 Verification pilot programs, each using a separate and dis-
20 tinct technology (the “Authentication Pilots”). The pur-
21 pose of the Authentication Pilots shall be to provide for
22 identity authentication and employment eligibility verifica-
23 tion with respect to enrolled new employees which shall
24 be available to any employer that elects to participate in
25 either of the Authentication Pilots. Any participating em-

1 ployer may cancel the employer's participation in the Au-
2 thentication Pilot after one year after electing to partici-
3 pate without prejudice to future participation. The Sec-
4 retary shall report to the Committee on the Judiciary of
5 the House of Representatives and the Committee on the
6 Judiciary of the Senate the Secretary's findings on the
7 Authentication Pilots, including the authentication tech-
8 nologies chosen, not later than 12 months after com-
9 mencement of the Authentication Pilots.

10 **SEC. 6114. INSPECTOR GENERAL AUDITS.**

11 (a) IN GENERAL.—Not later than 1 year after the
12 date of the enactment of this Act, the Inspector General
13 of the Social Security Administration shall complete audits
14 of the following categories in order to uncover evidence
15 of individuals who are not authorized to work in the
16 United States:

17 (1) Workers who dispute wages reported on
18 their social security account number when they be-
19 lieve someone else has used such number and name
20 to report wages.

21 (2) Children's social security account numbers
22 used for work purposes.

23 (3) Employers whose workers present signifi-
24 cant numbers of mismatched social security account
25 numbers or names for wage reporting.

1 (b) SUBMISSION.—The Inspector General of the So-
2 cial Security Administration shall submit the audits com-
3 pleted under subsection (a) to the Committee on Ways and
4 Means of the House of Representatives and the Committee
5 on Finance of the Senate for review of the evidence of
6 individuals who are not authorized to work in the United
7 States. The Chairmen of those Committees shall then de-
8 termine information to be shared with the Secretary of
9 Homeland Security so that such Secretary can investigate
10 the unauthorized employment demonstrated by such evi-
11 dence.

12 **SEC. 6115. NATIONWIDE E-VERIFY AUDIT.**

13 Not later than 5 years after the date of enactment
14 of this Act, the Secretary of Commerce shall conduct a
15 nationwide audit of compliance with the requirements of
16 section 274A(b) of the Immigration and Nationality Act
17 by employers in all States, and shall report compliance lev-
18 els on a State-by-State basis. No person may receive a
19 visa under section 4005 of division B of this Act or reg-
20 ister for the Redemption Program under subtitle B of title
21 IV of such division until the Secretary certifies that all
22 employers in all States are in compliance with the require-
23 ments of section 274A(b) of the Immigration and Nation-
24 ality Act.

1 **TITLE W—SARAH AND GRANT’S**
2 **LAW**

3 **SEC. 7101. SARAH AND GRANT’S LAW.**

4 (a) DETENTION OF ALIENS DURING REMOVAL PRO-
5 CEEDINGS.—

6 (1) CLERICAL AMENDMENTS.—(A) Section 236
7 of the Immigration and Nationality Act (8 U.S.C.
8 1226) is amended by striking “Attorney General”
9 each place it appears (except in the second place
10 that term appears in section 236(a)) and inserting
11 “Secretary of Homeland Security”.

12 (B) Section 236(a) of such Act (8 U.S.C.
13 1226(a)) is amended by inserting “the Secretary of
14 Homeland Security or” before “the Attorney Gen-
15 eral—”.

16 (C) Section 236(e) of such Act (8 U.S.C.
17 1226(e)) is amended by striking “Attorney Gen-
18 eral’s” and inserting “Secretary of Homeland Secu-
19 rity’s”.

20 (2) LENGTH OF DETENTION.—Section 236 of
21 such Act (8 U.S.C. 1226) is amended by adding at
22 the end the following:

23 “(f) LENGTH OF DETENTION.—

24 “(1) IN GENERAL.—Notwithstanding any other
25 provision of this section, an alien may be detained,

1 and for an alien described in subsection (c) shall be
2 detained, under this section without time limitation,
3 except as provided in subsection (h), during the
4 pendency of removal proceedings.

5 “(2) CONSTRUCTION.—The length of detention
6 under this section shall not affect detention under
7 section 241.”.

8 (3) DETENTION OF CRIMINAL ALIENS.—Section
9 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is
10 amended—

11 (A) in subparagraph (C), by striking “or”
12 at the end;

13 (B) by inserting after subparagraph (D)
14 the following:

15 “(E) is unlawfully present in the United
16 States and has been convicted for driving while
17 intoxicated (including a conviction for driving
18 while under the influence or impaired by alcohol
19 or drugs) without regard to whether the convic-
20 tion is classified as a misdemeanor or felony
21 under State law, or

22 “(F)(i)(I) is inadmissible under section
23 212(a)(6)(i),

24 “(II) is deportable by reason of a visa rev-
25 ocation under section 221(i), or

1 “(III) is deportable under section
2 237(a)(1)(C)(i), and

3 “(ii) has been arrested or charged with a
4 particularly serious crime or a crime resulting
5 in the death or serious bodily injury (as defined
6 in section 1365(h)(3) of title 18, United States
7 Code) of another person;”; and

8 (C) by amending the matter following sub-
9 paragraph (F) (as added by subparagraph (B)
10 of this paragraph) to read as follows:

11 “any time after the alien is released, without regard
12 to whether an alien is released related to any activity, of-
13 fense, or conviction described in this paragraph; to wheth-
14 er the alien is released on parole, supervised release, or
15 probation; or to whether the alien may be arrested or im-
16 prisoned again for the same offense. If the activity de-
17 scribed in this paragraph does not result in the alien being
18 taken into custody by any person other than the Secretary,
19 then when the alien is brought to the attention of the Sec-
20 retary or when the Secretary determines it is practical to
21 take such alien into custody, the Secretary shall take such
22 alien into custody.”.

23 (4) ADMINISTRATIVE REVIEW.—Section 236 of
24 the Immigration and Nationality Act (8 U.S.C.

1 1226), as amended by paragraph (2), is further
2 amended by adding at the end the following:

3 “(g) ADMINISTRATIVE REVIEW.—The Attorney Gen-
4 eral’s review of the Secretary’s custody determinations
5 under subsection (a) for the following classes of aliens
6 shall be limited to whether the alien may be detained, re-
7 leased on bond (of at least \$1,500 with security approved
8 by the Secretary), or released with no bond:

9 “(1) Aliens in exclusion proceedings.

10 “(2) Aliens described in section 212(a)(3) or
11 237(a)(4).

12 “(3) Aliens described in subsection (c).

13 “(h) RELEASE ON BOND.—

14 “(1) IN GENERAL.—An alien detained under
15 subsection (a) may seek release on bond. No bond
16 may be granted except to an alien who establishes
17 by clear and convincing evidence that the alien is not
18 a flight risk or a danger to another person or the
19 community.

20 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
21 detained under subsection (c) may seek release on
22 bond.”.

23 (5) CLERICAL AMENDMENTS.—(A) Section
24 236(a)(2)(B) of the Immigration and Nationality
25 Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-

1 ing “conditional parole” and inserting “recog-
2 nizance”.

3 (B) Section 236(b) of such Act (8 U.S.C.
4 1226(b)) is amended by striking “parole” and in-
5 serting “recognizance”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall take effect on the date of the enact-
8 ment of this Act and shall apply to any alien in detention
9 under the provisions of section 236 of the Immigration
10 and Nationality Act (8 U.S.C. 1226), as so amended, or
11 otherwise subject to the provisions of such section, on or
12 after such date.

13 **SEC. 7102. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

14 (a) IN GENERAL.—Section 275 of the Immigration
15 and Nationality Act (8 U.S.C. 1325) is amended to read
16 as follows:

17 “ILLEGAL ENTRY OR PRESENCE

18 “SEC. 275. (a) IN GENERAL.—

19 “(1) ILLEGAL ENTRY OR PRESENCE.—An alien
20 18 years of age or older shall be subject to the pen-
21 alties set forth in paragraph (2) if the alien—

22 “(A) knowingly eludes, at any time or
23 place, examination or inspection by an author-
24 ized immigration, customs, or agriculture offi-
25 cer (including by failing to stop at the com-
26 mand of such officer);

1 “(B) knowingly enters or crosses the bor-
2 der to the United States and, upon examination
3 or inspection, knowingly makes a false or mis-
4 leading representation or the knowing conceal-
5 ment of a material fact (including such rep-
6 resentation or concealment in the context of ar-
7 rival, reporting, entry, or clearance require-
8 ments of the customs laws, immigration laws,
9 agriculture laws, or shipping laws);

10 “(C) knowingly violates the terms or condi-
11 tions of the alien’s admission or parole into the
12 United States and has remained in violation for
13 an aggregate period of 90 days or more; or

14 “(D) knowingly is unlawfully present in
15 the United States (as defined in section
16 212(a)(9)(B)(ii) subject to the exceptions set
17 forth in section 212(a)(9)(B)(iii)) and has re-
18 mained in violation for an aggregate period of
19 90 days or more.

20 “(2) CRIMINAL PENALTIES.—Any alien who
21 violates any provision under paragraph (1)—

22 “(A) shall, for the first violation, be fined
23 under title 18, United States Code, imprisoned
24 not more than 2 years, or both;

1 “(B) shall, for a second or subsequent vio-
2 lation, or following an order of voluntary depar-
3 ture, be fined under such title, imprisoned not
4 more than 5 years (or not more than 2 years
5 in the case of a second or subsequent violation
6 of paragraph (1)(E)), or both;

7 “(C) if the violation occurred after the
8 alien had been convicted of 3 or more mis-
9 demeanors or for a felony, shall be fined under
10 such title, imprisoned not more than 10 years,
11 or both;

12 “(D) if the violation occurred after the
13 alien had been convicted of a felony for which
14 the alien received a term of imprisonment of
15 not less than 30 months, shall be fined under
16 such title, imprisoned not more than 20 years,
17 or both; and

18 “(E) if the violation occurred after the
19 alien had been convicted of a felony for which
20 the alien received a term of imprisonment of
21 not less than 60 months, such alien shall be
22 fined under such title, imprisoned not more
23 than 25 years, or both.

24 “(3) PRIOR CONVICTIONS.—The prior convic-
25 tions described in subparagraphs (C) through (E) of

1 paragraph (2) are elements of the offenses described
2 and the penalties in such subparagraphs shall apply
3 only in cases in which the conviction or convictions
4 that form the basis for the additional penalty are—

5 “(A) alleged in the indictment or informa-
6 tion; and

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

9 “(4) DURATION OF OFFENSE.—An offense
10 under this subsection continues until the alien is dis-
11 covered within the United States by an immigration,
12 customs, or agriculture officer, or until the alien is
13 granted a valid visa or relief from removal.

14 “(5) ATTEMPT.—Whoever attempts to commit
15 any offense under this section may be punished in
16 the same manner as for a completion of such of-
17 fense.

18 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
19 ALTIES.—Any alien who is apprehended knowingly cross-
20 ing or attempting to cross the border to the United States
21 at a time or place other than as designated by immigration
22 officers shall be subject to a civil penalty, in addition to
23 any criminal or other civil penalties that may be imposed
24 under any other provision of law, in an amount equal to—

1 “(1) not less than \$50 or more than \$5,000 for
2 each such entry, crossing, attempted entry, or at-
3 tempted crossing; or

4 “(2) not more than \$25,000 if the alien had
5 previously been subject to a civil penalty under this
6 subsection.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
8 for the Immigration and Nationality Act is amended by
9 striking the item relating to section 275 and inserting the
10 following:

“Sec. 275. Illegal entry or presence.”.

11 (c) EFFECTIVE DATES AND APPLICABILITY.—

12 (1) CRIMINAL PENALTIES.—Section 275(a) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1325(a)), as amended by subsection (a), shall take
15 effect 180 days after the date of the enactment of
16 this Act, and shall apply to acts, conditions, or viola-
17 tions described in such section 275(a) that occur or
18 exist on or after such effective date.

19 (2) CIVIL PENALTIES.—Section 275(b) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1325(b)), as amended by subsection (a), shall take
22 effect on the date of the enactment of this Act and
23 shall apply to acts described in such section 275(b)
24 that occur before, on, or after such date.

1 **SEC. 7103. ILLEGAL REENTRY.**

2 Section 276 of the Immigration and Nationality Act
3 (8 U.S.C. 1326) is amended to read as follows:

4 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

5 “(a) REENTRY AFTER REMOVAL.—

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

15 “(2) EXCEPTION.—If an alien sought and re-
16 ceived the express consent of the Secretary to re-
17 apply for admission into the United States, or, with
18 respect to an alien previously denied admission and
19 removed, the alien was not required to obtain such
20 advance consent under the Immigration and Nation-
21 ality Act or any prior Act, the alien shall not be sub-
22 ject to the fine and imprisonment provided for in
23 paragraph (1).

24 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
25 withstanding the penalty provided in subsection (a), if an

1 alien described in that subsection was convicted before
2 such removal or departure—

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

7 “(2) for a felony for which the alien was sen-
8 tenced to a term of imprisonment of not less than
9 30 months, the alien shall be fined under such title,
10 imprisoned not more than 20 years, or both;

11 “(3) for a felony for which the alien was sen-
12 tenced to a term of imprisonment of not less than
13 60 months, the alien shall be fined under such title,
14 imprisoned not more than 25 years, or both; or

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

21 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
22 alien who has been denied admission, excluded, deported,
23 or removed 3 or more times and thereafter enters, at-
24 tempts to enter, crosses the border to, attempts to cross
25 the border to, or is at any time found in the United States,

1 shall be fined under title 18, United States Code, impris-
2 oned not more than 20 years, or both.

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

8 “(1) alleged in the indictment or information;
9 and

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

12 “(e) REENTRY OF ALIEN REMOVED PRIOR TO COM-
13 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
14 moved pursuant to section 241(a)(4) who enters, attempts
15 to enter, crosses the border to, attempts to cross the bor-
16 der to, or is at any time found in, the United States shall
17 be incarcerated for the remainder of the sentence of im-
18 prisonment which was pending at the time of deportation
19 without any reduction for parole or supervised release un-
20 less the alien affirmatively demonstrates that the Sec-
21 retary of Homeland Security has expressly consented to
22 the alien’s reentry. Such alien shall be subject to such
23 other penalties relating to the reentry of removed aliens
24 as may be available under this section or any other provi-
25 sion of law.

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

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

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

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

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

22 “(5) REMOVAL.—The term ‘removal’ includes
23 any denial of admission, exclusion, deportation, or
24 removal, or any agreement by which an alien stipu-
25 lates or agrees to exclusion, deportation, or removal.

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

5 **TITLE X—GANG MEMBER**
6 **REMOVAL**

7 **SEC. 8101. GROUNDS OF INADMISSIBILITY AND DEPORT-**
8 **ABILITY FOR ALIEN GANG MEMBERS.**

9 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)) is amended by inserting after paragraph (52) the
12 following:

13 “(53)(A) The term ‘criminal gang’ means an associa-
14 tion of 5 or more individuals—

15 “(i) whose members knowingly, willingly, and
16 collectively identify themselves by adopting a group
17 identity, which they use to create an atmosphere of
18 fear or intimidation, frequently by employing one or
19 more of the following: a common name, slogan, iden-
20 tifying sign, symbol, tattoo or other physical mark-
21 ing, style or color of clothing, hairstyle, hand sign or
22 graffiti;

23 “(ii) whose purpose in part is to engage in
24 criminal activity and which uses violence or intima-
25 tion to further its criminal objectives; and

1 “(iii) whose members engage in criminal activ-
2 ity or acts of juvenile delinquency that if committed
3 by an adult would be crimes with the intent to en-
4 hance or preserve the association’s power, reputation
5 or economic resources.

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

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

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

12 “(iii) The association may provide physical pro-
13 tection of its members from others.

14 “(iv) The association may seek to exercise con-
15 trol over a particular geographic location or region,
16 or it may simply defend its perceived interests
17 against rivals.

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

20 “(C) The offenses described, whether in violation of
21 Federal or State law or foreign law and regardless of
22 whether the offenses occurred before, on, or after the date
23 of the enactment of this paragraph, are the following:

1 “(i) A ‘felony drug offense’ (as defined in sec-
2 tion 102 of the Controlled Substances Act (21
3 U.S.C. 802)).

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

8 “(iii) An offense under section 274 (relating to
9 bringing in and harboring certain aliens), section
10 277 (relating to aiding or assisting certain aliens to
11 enter the United States), or section 278 (relating to
12 importation of alien for immoral purpose), except
13 that this clause does not apply in the case of an or-
14 ganization described in section 501(c)(3) of the In-
15 ternal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
16 which is exempt from taxation under section 501(a)
17 of such Code.

18 “(iv) A violent crime described in section
19 101(a)(43)(F).

20 “(v) A crime involving obstruction of justice,
21 tampering with or retaliating against a witness, vic-
22 tim, or informant, or perjury or subornation of per-
23 jury.

24 “(vi) Any conduct punishable under sections
25 1028A and 1029 of title 18, United States Code (re-

1 relating to aggravated identity theft or fraud and re-
2 lated activity in connection with identification docu-
3 ments or access devices), sections 1581 through
4 1594 of such title (relating to peonage, slavery, and
5 trafficking in persons), section 1951 of such title
6 (relating to interference with commerce by threats or
7 violence), section 1952 of such title (relating to
8 interstate and foreign travel or transportation in aid
9 of racketeering enterprises), section 1956 of such
10 title (relating to the laundering of monetary instru-
11 ments), section 1957 of such title (relating to engag-
12 ing in monetary transactions in property derived
13 from specified unlawful activity), or sections 2312
14 through 2315 of such title (relating to interstate
15 transportation of stolen motor vehicles or stolen
16 property).

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

22 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
23 (8 U.S.C. 1182(a)(2)) is amended—

24 (1) in subparagraph (A)(i)—

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

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

5 “(III) a violation of (or a con-
6 spiracy or attempt to violate) any law
7 or regulation of a State, the United
8 States, or a foreign country relating
9 to participation or membership in a
10 criminal gang, or

11 “(IV) any felony or misdemeanor
12 offense for which the alien received a
13 sentencing enhancement predicated on
14 knowing gang membership or conduct
15 that promoted, furthered, aided, or
16 supported the illegal activity of the
17 criminal gang, except in the case of
18 any such alien who was a minor under
19 the age of 16 at the time of the of-
20 fense, who was forced, threatened, or
21 coerced into association with the
22 criminal gang, who was unknowingly
23 associated with the gang, or who
24 acted under duress.”.

25 (2) by adding at the end the following:

1 “(N) ALIENS ASSOCIATED WITH CRIMINAL
2 GANGS.—

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

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

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

15 “(bb) to have participated in
16 the activities of a criminal gang
17 (as defined in section
18 101(a)(53)), knowing or having
19 reason to know that such activi-
20 ties will promote, further, aid, or
21 support the illegal activity of the
22 criminal gang.

23 “(II) That alien is inadmissible if
24 a consular officer, the Secretary of
25 Homeland Security, or the Attorney

1 General has reasonable grounds to be-
2 lieve the alien has participated in,
3 been a member of, promoted, or con-
4 spired with a criminal gang, either in-
5 side or outside of the United States.

6 “(III) That alien is inadmissible
7 if a consular officer, an immigration
8 officer, the Secretary of Homeland Se-
9 curity, or the Attorney General has
10 reasonable grounds to believe seeks to
11 enter the United States or has en-
12 tered the United States in furtherance
13 of the activities of a criminal gang, ei-
14 ther inside or outside of the United
15 States.

16 “(ii) ALIENS PHYSICALLY PRESENT IN THE
17 UNITED STATES.—In the case of an alien who
18 is physically present in the United States, that
19 alien is inadmissible if the alien—

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

22 “(II) has participated in the activities
23 of a criminal gang (as defined in section
24 101(a)(53)), knowing or having reason to
25 know that such activities will promote, fur-

1 ther, aid, or support the illegal activity of
2 the criminal gang.

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

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

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

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

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

23 “(H) ALIENS ASSOCIATED WITH CRIMINAL
24 GANGS.—

1 “(i) IN GENERAL.—Any alien is de-
2 portable who—

3 “(I) is or has been a member of
4 a criminal gang (as defined in section
5 101(a)(53));

6 “(II) has participated in the ac-
7 tivities of a criminal gang (as so de-
8 fined), knowing or having reason to
9 know that such activities will promote,
10 further, aid, or support the illegal ac-
11 tivity of the criminal gang;

12 “(III) has been convicted of a
13 violation of (or a conspiracy or at-
14 tempt to violate) any law or regulation
15 of a State, the United States, or a
16 foreign country relating to participa-
17 tion or membership in a criminal
18 gang; or

19 “(IV) any felony or misdemeanor
20 offense for which the alien received a
21 sentencing enhancement predicated on
22 gang membership or conduct that pro-
23 moted, furthered, aided, or supported
24 the illegal activity of the criminal
25 gang.

1 “(ii) EXCEPTION.—Clause (i) does not
2 apply to a spouse or child of an alien—

3 “(I) who did not know or should
4 not reasonably have known of the ac-
5 tivity causing the alien to be found in-
6 admissible under this section;

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

12 “(III) whom the consular officer
13 or Attorney General has reasonable
14 grounds to believe did not willingly
15 participate in the activity of the asso-
16 ciated gang, was under the direct con-
17 trol of a member, or did so under du-
18 ress.”.

19 (d) DESIGNATION.—

20 (1) IN GENERAL.—Chapter 2 of title II of the
21 Immigration and Nationality Act (8 U.S.C. 1182) is
22 amended by inserting after section 219 the fol-
23 lowing:

24 “DESIGNATION OF CRIMINAL GANG

25 “SEC. 220.

26 “(a) DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary of Homeland Se-
2 curity, in consultation with the Attorney General, may
3 designate a group, club, organization, or association of 5
4 or more persons as a criminal gang if the Secretary finds
5 that their conduct is described in section 101(a)(53).

6 “(2) PROCEDURE.—

7 “(A) NOTIFICATION.—60 days before making a
8 designation under this subsection, the Secretary
9 shall, by classified communication, notify the Speak-
10 er and Minority Leader of the House of Representa-
11 tives, the President pro tempore, Majority Leader,
12 and Minority Leader of the Senate, and the mem-
13 bers of the relevant committees of the House of Rep-
14 resentatives and the Senate, in writing, of the intent
15 to designate a group, club, organization, or associa-
16 tion of 5 or more persons under this subsection and
17 the factual basis therefor.

18 “(B) PUBLICATION IN THE FEDERAL REG-
19 ISTER.—The Secretary shall publish the designation
20 in the Federal Register seven days after providing
21 the notification under subparagraph (A).

22 “(3) RECORD.—

23 “(A) IN GENERAL.—In making a designation
24 under this subsection, the Secretary shall create an
25 administrative record.

1 “(B) CLASSIFIED INFORMATION.—The Sec-
2 retary may consider classified information in making
3 a designation under this subsection. Classified infor-
4 mation shall not be subject to disclosure for such
5 time as it remains classified, except that such infor-
6 mation may be disclosed to a court ex parte and in
7 camera for purposes of judicial review under sub-
8 section (c).

9 “(4) PERIOD OF DESIGNATION.—

10 “(A) IN GENERAL.—A designation under this
11 subsection shall be effective for all purposes until re-
12 voked under paragraph (5) or (6) or set aside pursu-
13 ant to subsection (c).

14 “(B) REVIEW OF DESIGNATION UPON PETI-
15 TION.—

16 “(i) IN GENERAL.—The Secretary shall re-
17 view the designation of a criminal gang under
18 the procedures set forth in clauses (iii) and (iv)
19 if the designated group, club, organization, or
20 association of 5 or more persons files a petition
21 for revocation within the petition period de-
22 scribed in clause (ii).

23 “(ii) PETITION PERIOD.—For purposes of
24 clause (i)—

1 “(I) if the designated group, club, or-
2 ganization, or association of 5 or more per-
3 sons has not previously filed a petition for
4 revocation under this subparagraph, the
5 petition period begins 2 years after the
6 date on which the designation was made;
7 or

8 “(II) if the designated group, club, or-
9 ganization, or association of 5 or more per-
10 sons has previously filed a petition for rev-
11 ocation under this subparagraph, the peti-
12 tion period begins 2 years after the date of
13 the determination made under clause (iv)
14 on that petition.

15 “(iii) PROCEDURES.—Any group, club, or-
16 ganization, or association of 5 or more persons
17 that submits a petition for revocation under
18 this subparagraph of its designation as a crimi-
19 nal gang must provide evidence in that petition
20 that it is not described in section 101(a)(53).

21 “(iv) DETERMINATION.—

22 “(I) IN GENERAL.—Not later than 60
23 days after receiving a petition for revoca-
24 tion submitted under this subparagraph,

1 the Secretary shall make a determination
2 as to such revocation.

3 “(II) CLASSIFIED INFORMATION.—

4 The Secretary may consider classified in-
5 formation in making a determination in re-
6 sponse to a petition for revocation. Classi-
7 fied information shall not be subject to dis-
8 closure for such time as it remains classi-
9 fied, except that such information may be
10 disclosed to a court ex parte and in camera
11 for purposes of judicial review under sub-
12 section (c).

13 “(III) PUBLICATION OF DETERMINA-
14 TION.—A determination made by the Sec-
15 retary under this clause shall be published
16 in the Federal Register.

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

20 “(C) OTHER REVIEW OF DESIGNATION.—

21 “(i) IN GENERAL.—If in a 5-year period no
22 review has taken place under subparagraph (B),
23 the Secretary shall review the designation of the
24 criminal gang in order to determine whether

1 such designation should be revoked pursuant to
2 paragraph (6).

3 “(ii) PROCEDURES.—If a review does not
4 take place pursuant to subparagraph (B) in re-
5 sponse to a petition for revocation that is filed
6 in accordance with that subparagraph, then the
7 review shall be conducted pursuant to proce-
8 dures established by the Secretary. The results
9 of such review and the applicable procedures
10 shall not be reviewable in any court.

11 “(iii) PUBLICATION OF RESULTS OF RE-
12 VIEW.—The Secretary shall publish any deter-
13 mination made pursuant to this subparagraph
14 in the Federal Register.

15 “(5) REVOCATION BY ACT OF CONGRESS.—The Con-
16 gress, by an Act of Congress, may block or revoke a des-
17 ignation made under paragraph (1).

18 “(6) REVOCATION BASED ON CHANGE IN CIR-
19 CUMSTANCES.—

20 “(A) IN GENERAL.—The Secretary may revoke
21 a designation made under paragraph (1) at any
22 time, and shall revoke a designation upon completion
23 of a review conducted pursuant to subparagraphs
24 (B) and (C) of paragraph (4) if the Secretary finds
25 that—

1 “(i) the group, club, organization, or asso-
2 ciation of 5 or more persons that has been des-
3 ignated as a criminal gang is no longer de-
4 scribed in section 101(a)(53); or

5 “(ii) the national security or the law en-
6 forcement interests of the United States war-
7 rants a revocation.

8 “(B) PROCEDURE.—The procedural require-
9 ments of paragraphs (2) and (3) shall apply to a
10 revocation under this paragraph. Any revocation
11 shall take effect on the date specified in the revoca-
12 tion or upon publication in the Federal Register if
13 no effective date is specified.

14 “(7) EFFECT OF REVOCATION.—The revocation of a
15 designation under paragraph (5) or (6) shall not affect
16 any action or proceeding based on conduct committed
17 prior to the effective date of such revocation.

18 “(8) USE OF DESIGNATION IN TRIAL OR HEAR-
19 ING.—If a designation under this subsection has become
20 effective under paragraph (2) an alien in a removal pro-
21 ceeding shall not be permitted to raise any question con-
22 cerning the validity of the issuance of such designation
23 as a defense or an objection.

24 “(b) AMENDMENTS TO A DESIGNATION.—

1 “(1) IN GENERAL.—The Secretary may amend
2 a designation under this subsection if the Secretary
3 finds that the group, club, organization, or associa-
4 tion of 5 or more persons has changed its name,
5 adopted a new alias, dissolved and then reconsti-
6 tuted itself under a different name or names, or
7 merged with another group, club, organization, or
8 association of 5 or more persons.

9 “(2) PROCEDURE.—Amendments made to a
10 designation in accordance with paragraph (1) shall
11 be effective upon publication in the Federal Register.
12 Paragraphs (2), (4), (5), (6), (7), and (8) of sub-
13 section (a) shall also apply to an amended designa-
14 tion.

15 “(3) ADMINISTRATIVE RECORD.—The adminis-
16 trative record shall be corrected to include the
17 amendments as well as any additional relevant infor-
18 mation that supports those amendments.

19 “(4) CLASSIFIED INFORMATION.—The Sec-
20 retary may consider classified information in amend-
21 ing a designation in accordance with this subsection.
22 Classified information shall not be subject to disclo-
23 sure for such time as it remains classified, except
24 that such information may be disclosed to a court ex

1 parte and in camera for purposes of judicial review
2 under subsection (c) of this section.

3 “(c) JUDICIAL REVIEW OF DESIGNATION.—

4 “(1) IN GENERAL.—Not later than 30 days
5 after publication in the Federal Register of a des-
6 ignation, an amended designation, or a determina-
7 tion in response to a petition for revocation, the des-
8 ignated group, club, organization, or association of 5
9 or more persons may seek judicial review in the
10 United States Court of Appeals for the District of
11 Columbia Circuit.

12 “(2) BASIS OF REVIEW.—Review under this
13 subsection shall be based solely upon the administra-
14 tive record, except that the Government may submit,
15 for ex parte and in camera review, classified infor-
16 mation used in making the designation, amended
17 designation, or determination in response to a peti-
18 tion for revocation.

19 “(3) SCOPE OF REVIEW.—The Court shall hold
20 unlawful and set aside a designation, amended des-
21 ignation, or determination in response to a petition
22 for revocation the court finds to be—

23 “(A) arbitrary, capricious, an abuse of dis-
24 cretion, or otherwise not in accordance with
25 law;

1 “(B) contrary to constitutional right,
2 power, privilege, or immunity;

3 “(C) in excess of statutory jurisdiction, au-
4 thority, or limitation, or short of statutory
5 right;

6 “(D) lacking substantial support in the ad-
7 ministrative record taken as a whole or in clas-
8 sified information submitted to the court under
9 paragraph (2); or

10 “(E) not in accord with the procedures re-
11 quired by law.

12 “(4) JUDICIAL REVIEW INVOKED.—The pend-
13 ency of an action for judicial review of a designation,
14 amended designation, or determination in response
15 to a petition for revocation shall not affect the appli-
16 cation of this section, unless the court issues a final
17 order setting aside the designation, amended des-
18 ignation, or determination in response to a petition
19 for revocation.

20 “(d) DEFINITIONS.—As used in this section—

21 “(1) the term ‘classified information’ has the
22 meaning given that term in section 1(a) of the Clas-
23 sified Information Procedures Act (18 U.S.C. App.);

1 “(2) the term ‘national security’ means the na-
2 tional defense, foreign relations, or economic inter-
3 ests of the United States;

4 “(3) the term ‘relevant committees’ means the
5 Committees on the Judiciary of the Senate and of
6 the House of Representatives; and

7 “(4) the term ‘Secretary’ means the Secretary
8 of Homeland Security, in consultation with the At-
9 torney General.”.

10 (2) CLERICAL AMENDMENT.—The table of con-
11 tents for such Act is amended by inserting after the
12 item relating to section 219 the following:

“Sec. 220. Designation.”.

13 (e) MANDATORY DETENTION OF CRIMINAL GANG
14 MEMBERS.—

15 (1) IN GENERAL.—Section 236(c)(1) of the Im-
16 migration and Nationality Act (8 U.S.C.
17 1226(c)(1)), as amended by this division, is further
18 amended—

19 (A) in subparagraph (E), by striking “or”
20 at the end;

21 (B) in subparagraph (F), by inserting “or”
22 at the end; and

23 (C) by inserting after subparagraph (F)
24 the following:

1 “(G) is inadmissible under section
2 212(a)(2)(N) or deportable under section
3 237(a)(2)(H),”.

4 (2) ANNUAL REPORT.—Not later than March 1
5 of each year (beginning 1 year after the date of the
6 enactment of this Act), the Secretary of Homeland
7 Security, after consultation with the appropriate
8 Federal agencies, shall submit a report to the Com-
9 mittees on the Judiciary of the House of Represent-
10 atives and of the Senate on the number of aliens de-
11 tained under the amendments made by paragraph
12 (1).

13 **TITLE Y—ASYLUM REFORM**

14 **SEC. 9101. REGIONAL PROCESSING CENTERS.**

15 Subtitle C of title IV of the Homeland Security Act
16 of 2002 (6 U.S.C. 231 et seq.) is amended by adding at
17 the end the following:

18 **“SEC. 437. REGIONAL PROCESSING CENTERS.**

19 “(a) IN GENERAL.—Not later than 24 months after
20 the effective date of this section, the Secretary shall estab-
21 lish not fewer than 4 regional processing centers located
22 in high traffic sectors of U.S. Border Patrol, as deter-
23 mined by the Secretary, along the southern border land
24 border of the United States (referred to in this section
25 as a ‘regional processing center’).

1 “(b) PURPOSE.—The regional processing centers
2 shall carry out processing and management activities for
3 family units apprehended at the border, including—

4 “(1) criminal history checks;

5 “(2) identity verification;

6 “(3) biometrics collection and analysis;

7 “(4) medical screenings;

8 “(5) asylum interviews and credible fear deter-
9 minations under section 235 of the Immigration and
10 Nationality Act (8 U.S.C. 1225) and reasonable fear
11 determinations under section 241(b)(3)(B) of that
12 Act (8 U.S.C. 1231(b)(3)(B));

13 “(6) facilitating coordination and communica-
14 tion between Federal entities and nongovernmental
15 organizations that are directly involved in providing
16 assistance to aliens;

17 “(7) legal orientation programming and com-
18 munication between aliens and outside legal counsel;

19 “(8) issuance of legal documents relating to im-
20 migration court proceedings of aliens; and

21 “(9) any other activity the Secretary considers
22 appropriate.

23 “(c) PERSONNEL AND LIVING CONDITIONS.—The re-
24 gional processing centers shall include—

25 “(1) personnel assigned from—

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

2 “(B) U.S. Immigration and Customs En-
3 forcement;

4 “(C) the Federal Emergency Management
5 Agency;

6 “(D) U.S. Citizenship and Immigration
7 Services; and

8 “(E) the Office of Refugee Resettlement;

9 “(2) upon agreement with an applicable Federal
10 agency, personnel from such Federal agency who are
11 assigned to the regional processing center;

12 “(3) sufficient medical staff, including physi-
13 cians specializing in pediatric or family medicine,
14 nurse practitioners, and physician assistants;

15 “(4) licensed social workers;

16 “(5) mental health professionals;

17 “(6) child advocates appointed by the Secretary
18 of Health and Human Services under section
19 235(c)(6)(B) of the William Wilberforce Trafficking
20 Victims Protection Reauthorization Act of 2008 (8
21 U.S.C. 1232(c)(6)(B)); and

22 “(7) sufficient space to carry out the processing
23 and management activities described in subsection
24 (b).

1 “(d) CRIMINAL HISTORY CHECKS.—Each criminal
2 history check carried out under subsection (b)(1) shall be
3 conducted using a set of fingerprints or other biometric
4 identifier obtained from—

5 “(1) the Federal Bureau of Investigation;

6 “(2) the criminal history repositories of all
7 States that the individual listed as a current or
8 former residence; and

9 “(3) any other appropriate Federal or State
10 database resource or repository, as determined by
11 the Secretary.

12 “(e) EXCEPTIONS FOR ADDITIONAL PURPOSES.—
13 Subject to operational and spatial availability, in the event
14 of a major disaster or emergency declared under the Rob-
15 ert T. Stafford Disaster Relief and Emergency Assistance
16 Act (42 U.S.C. 5121 et seq.) or any homeland security
17 crisis requiring the establishment of a departmental Joint
18 Task Force under section 708(b), the Secretary may tem-
19 porarily utilize a regional processing center to carry out
20 operations relating to such declaration or crisis.

21 “(f) DONATIONS.—The Department may accept do-
22 nations from private entities, nongovernmental organiza-
23 tions, and other groups independent of the Federal Gov-
24 ernment for the care of children and family units detained
25 at a regional processing center, including—

1 “(1) medical goods and services;

2 “(2) school supplies;

3 “(3) toys;

4 “(4) clothing; and

5 “(5) any other item intended to promote the
6 well-being of such children and family units.

7 “(g) ACCESS TO FACILITIES FOR PRIVATE ENTITIES
8 AND NONGOVERNMENTAL ORGANIZATIONS.—

9 “(1) IN GENERAL.—Private entities and non-
10 governmental organizations that are directly involved
11 in providing humanitarian or legal assistance to
12 families and individuals encountered by the Depart-
13 ment along the southwest border of the United
14 States, or organizations that provide assistance to
15 detained individuals, shall have access to regional
16 processing centers for purposes of—

17 “(A) legal orientation programming;

18 “(B) coordination with the Department
19 with respect to the care of families and individ-
20 uals held in regional processing centers, includ-
21 ing the care of families and individuals who are
22 released or scheduled to be released;

23 “(C) communication between aliens and
24 outside legal counsel;

1 “(D) the provision of humanitarian assist-
2 ance; and

3 “(E) any other purpose the Secretary con-
4 siders appropriate.

5 “(2) ACCESS PLAN.—Not later than 60 days
6 after the date of the enactment of this section, the
7 Secretary shall publish in the Federal Register pro-
8 cedures relating to access to regional processing cen-
9 ters under paragraph (1) that ensure—

10 “(A) the safety of personnel of, and aliens
11 detained in, regional processing centers; and

12 “(B) the orderly management and oper-
13 ation of regional processing centers.

14 “(h) LEGAL COUNSEL.—Aliens detained in a regional
15 processing center shall have access to legal counsel in ac-
16 cordance with section 292 of the Immigration and Nation-
17 ality Act (8 U.S.C. 1362), including the opportunity to
18 consult with counsel before any legally determinative as-
19 pect of the asylum process occurs.

20 “(i) PROCEDURES TO FACILITATE COMMUNICATION
21 WITH COUNSEL.—The Secretary shall develop written
22 procedures to permit aliens detained in a regional proc-
23 essing center to visit with, and make confidential tele-
24 phone calls to, legal representatives and legal services pro-
25 viders and to receive incoming calls from legal representa-

1 tives and legal services providers, in a private and con-
2 fidential space while in custody, for the purposes of retain-
3 ing or consulting with counsel or obtaining legal advice
4 from legal services providers.

5 “(j) LEGAL ORIENTATION.—

6 “(1) IN GENERAL.—An alien detained in a re-
7 gional processing center shall be provided the oppor-
8 tunity to receive a complete legal orientation presen-
9 tation administered by a nongovernmental organiza-
10 tion in cooperation with the Executive Office for Im-
11 migration Review.

12 “(2) TIMELINE.—

13 “(A) IN GENERAL.—The Secretary shall
14 prioritize the provision of the legal orientation
15 presentation required by paragraph (1) to an
16 alien within 12 hours of apprehension.

17 “(B) REQUIREMENT.—In the case of an
18 alien who does not receive such legal orientation
19 presentation within 12 hours of apprehension,
20 the Secretary shall ensure that the alien re-
21 ceives the presentation—

22 “(i) not later than 24 hours after ap-
23 prehension; and

24 “(ii) not less than 24 hours before the
25 alien initially appears before an asylum of-

1 ficer or immigration judge in connection
2 with a claim for asylum.

3 “(k) MANAGEMENT OF REGIONAL PROCESSING CEN-
4 TERS.—

5 “(1) OPERATION.—The Commissioner of U.S.
6 Customs and Border Protection, in consultation with
7 the interagency coordinating council established
8 under paragraph (2), shall operate the regional proc-
9 essing centers.

10 “(2) INTERAGENCY COORDINATING COM-
11 MITTEE.—

12 “(A) ESTABLISHMENT.—There is estab-
13 lished an interagency coordinating committee
14 for the purpose of coordinating operations and
15 management of the regional processing centers.

16 “(B) MEMBERSHIP.—The interagency co-
17 ordinating committee shall be chaired by the
18 Commissioner of U.S. Customs and Border
19 Protection, or his or her designee, and shall in-
20 clude representatives designated by the heads of
21 the following agencies:

22 “(i) U.S. Immigration and Customs
23 Enforcement.

24 “(ii) The Federal Emergency Manage-
25 ment Agency.

1 “(iii) U.S. Citizenship and Immigra-
2 tion Services.

3 “(iv) The Office of Refugee Resettle-
4 ment.

5 “(v) Any other agency that supplies
6 personnel to the regional processing cen-
7 ters, upon agreement between the Commis-
8 sioner of U.S. Customs and Border Protec-
9 tion and the head of such other agency.”.

10 **SEC. 9102. CODIFICATION OF FLORES SETTLEMENT.**

11 Except as otherwise provided in this Act and the
12 amendments made by this Act, the stipulated settlement
13 agreement filed in the United States District Court for
14 the Central District of California on January 17, 1997
15 (CV 85–4544–RJK) (commonly known as the “Flores set-
16 tlement agreement”), shall apply hereafter to the deten-
17 tion and custody of minor aliens and their family members
18 subject to detention in the United States under the Immi-
19 gration and Nationality Act (8 U.S.C. 1101 et seq.).

20 **SEC. 9103. EXPEDITED ASYLUM ADJUDICATIONS.**

21 (a) IN GENERAL.—Notwithstanding any other provi-
22 sion of law, in the case of an application for asylum under
23 section 208 of the Immigration and Nationality Act made
24 by an alien who is traveling with the spouse or child of
25 that alien, of by an unaccompanied alien child (as such

1 term is defined in section 462(g) of the Homeland Secu-
2 rity Act of 2002), such an application shall be given pri-
3 ority in processing and consideration, including in accord-
4 ance with the requirements of this section.

5 (b) **PRIORITIZATION; DISCRETION TO WAIVE.**—Ex-
6 cept as otherwise provided in this section, an application
7 described in subsection (a) shall be processed and consid-
8 ered by an immigration judge prior to any other applica-
9 tion for asylum under the immigration laws based on the
10 month that the application was filed, starting with the
11 most recent month and working backwards. The Attorney
12 General may temporarily waive the application of this sub-
13 section on a case by case basis for purposes of relieving
14 any backlog in processing applications for asylum. The At-
15 torney General shall take such actions as may be prac-
16 ticable to commence a hearing not later than 45 days after
17 the application is received.

18 (c) **HEARING.**—In the case of any applicant described
19 in subsection (a) who is being held at a regional processing
20 center, not later than 180 days after that applicant’s ar-
21 rival and processing, there shall be a hearing on the asy-
22 lum application of such applicant before an immigration
23 judge. Such hearings may be conducted via teleconference.

24 (d) **PROGRAM TO PROVIDE NECESSITIES.**—The Di-
25 rector of the Office of Refugee Resettlement shall establish

1 a program to, using refugee resettlement community and
2 faith-based organizations and nonprofits, provide neces-
3 sities for any applicant described in subsection (a) await-
4 ing a hearing before an immigration judge, including hous-
5 ing, basic necessities, access to medical care, access to
6 mental treatment resources, and legal orientation pro-
7 grams.

8 (e) TRACKING.—The Family Case Management Pro-
9 gram may be used in certain situations in which a hearing
10 may be anticipated to take longer than 150 days to con-
11 clude, or in cases where remaining in a Regional Proc-
12 essing Center would cause unreasonable hardship on an
13 individual, such as cases involving a disability, injury, a
14 pregnant woman or girl, nursing mother, an elderly per-
15 son, a survivor of torture and trauma, a survivor of gen-
16 der-based violence or other violent crimes, a victims of
17 trafficking, or other special circumstances as determined
18 by the Attorney General. Any applicant given priority
19 under this section who is an adult, parent, or legal guard-
20 ian, shall wear an electronic monitoring device and shall
21 check in on a weekly basis using automated telephone
22 technology that confirms a caller's identity and location.
23 An electronic monitoring device shall be used in the case
24 of—

1 (1) any alien affirmatively claiming asylum as
2 a defense against removal;

3 (2) any alien the Secretary of Homeland Secu-
4 rity determines to be a flight risk;

5 (3) any alien who violates requirements under
6 the Family Case Management Program; or

7 (4) any alien who satisfies such additional cri-
8 teria as the Secretary may establish.

9 (f) CONTRACTING FOR GOODS AND SERVICES.—The
10 Attorney General is authorized to enter into contracts with
11 or award grants to nonprofit agencies providing direct
12 services and goods to asylum seekers.

13 (g) COUNSEL.—The Attorney General shall take
14 steps to provide for the appointment of counsel for vulner-
15 able populations and in particularly complex cases. For
16 purposes of this section, the term “vulnerable” means, in
17 the case of an alien, that circumstances exist in the case
18 of that alien that may require that the Secretary of Home-
19 land Security engage in additional intervention, assist-
20 ance, and care, including that the alien is—

21 (1) an unaccompanied or separated child;

22 (2) a child accompanied by a parent, other fam-
23 ily member, or guardian;

24 (3) a pregnant woman or girl, or a nursing
25 mother;

- 1 (4) the sole or primary caregiver of a dependent
- 2 child, elderly person, or person with disability;
- 3 (5) a woman at risk of sexual or gender-based
- 4 violence, exploitation, or abuse;
- 5 (6) a person at risk of violence due to their sex-
- 6 ual orientation or gender identify;
- 7 (7) a person at risk of suicide;
- 8 (8) a person with a disability;
- 9 (9) an elderly person;
- 10 (10) a person with substance addiction;
- 11 (11) a person who is destitute;
- 12 (12) a survivor of torture and trauma;
- 13 (13) a survivor of sexual or gender-based vio-
- 14 lence or other violent crimes;
- 15 (14) a victim of trafficking; or
- 16 (15) a stateless person.

17 **SEC. 9104. RECORDING EXPEDITED REMOVAL AND CRED-**
18 **IBLE FEAR INTERVIEWS.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity shall establish quality assurance procedures and take
21 steps to effectively ensure that questions by employees of
22 the Department of Homeland Security exercising expe-
23 dited removal authority under section 235(b) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
25 in a uniform manner, to the extent possible, and that both

1 these questions and the answers provided in response to
2 them are recorded in a uniform fashion.

3 (b) FACTORS RELATING TO SWORN STATEMENTS.—

4 Where practicable, any sworn or signed written statement
5 taken of an alien as part of the record of a proceeding
6 under section 235(b)(1)(A) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
8 panied by a recording of the interview which served as the
9 basis for that sworn statement.

10 (c) INTERPRETERS.—The Secretary shall ensure that
11 a fluent interpreter, not affiliated with the government of
12 the country from which the alien may claim asylum, is
13 used when the interviewing officer does not speak a lan-
14 guage that the alien is fluent in speaking.

15 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

16 There shall be an audio or audio visual recording of inter-
17 views of aliens subject to expedited removal. The recording
18 shall be included in the record of proceeding and shall be
19 considered as evidence in any further proceedings involv-
20 ing the alien.

21 **SEC. 9105. RENUNCIATION OF ASYLUM STATUS PURSUANT**
22 **TO RETURN TO HOME COUNTRY.**

23 (a) IN GENERAL.—Section 208(c) of the Immigration
24 and Nationality Act (8 U.S.C. 1158(c)) is amended by
25 adding at the end the following new paragraph:

1 “(4) RENUNCIATION OF STATUS PURSUANT TO
2 RETURN TO HOME COUNTRY.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), any alien who is granted
5 asylum status under this Act, who, absent
6 changed country conditions, subsequently re-
7 turns to the country of such alien’s nationality
8 or, in the case of an alien having no nationality,
9 returns to any country in which such alien last
10 habitually resided, and who applied for such
11 status because of persecution or a well-founded
12 fear of persecution in that country on account
13 of race, religion, nationality, membership in a
14 particular social group, or political opinion,
15 shall have his or her status terminated.

16 “(B) WAIVER.—The Secretary has discre-
17 tion to waive subparagraph (A) if it is estab-
18 lished to the satisfaction of the Secretary that
19 the alien had a compelling reason for the re-
20 turn. The waiver may be sought prior to depar-
21 ture from the United States or upon return.”.

22 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(c)(3)) is amended by inserting after “paragraph
25 (2)” the following: “or (4)”.

1 **SEC. 9106. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
2 **PLICATIONS.**

3 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
5 amended—

6 (1) in the matter preceding subparagraph (A),
7 by inserting “the Secretary of Homeland Security
8 or” before “the Attorney General”;

9 (2) in subparagraph (A), by striking “and of
10 the consequences, under paragraph (6), of knowingly
11 filing a frivolous application for asylum; and” and
12 inserting a semicolon;

13 (3) in subparagraph (B), by striking the period
14 and inserting “; and”; and

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

16 “(C) ensure that a written warning ap-
17 pears on the asylum application advising the
18 alien of the consequences of filing a frivolous
19 application and serving as notice to the alien of
20 the consequence of filing a frivolous applica-
21 tion.”.

22 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(d)(6)) is amended by striking “If the” and all that
25 follows and inserting:

1 “(A) If the Attorney General determines
2 that an alien has knowingly made a frivolous
3 application for asylum and the alien has re-
4 ceived the notice under paragraph (4)(C), the
5 alien shall be permanently ineligible for any
6 benefits under this chapter, effective as the date
7 of the final determination of such an applica-
8 tion;

9 “(B) An application is frivolous if the Sec-
10 retary of Homeland Security or the Attorney
11 General determines, consistent with subpara-
12 graph (C), that—

13 “(i) it is so insufficient in substance
14 that it is clear that the applicant know-
15 ingly filed the application solely or in part
16 to delay removal from the United States,
17 to seek employment authorization as an
18 applicant for asylum pursuant to regula-
19 tions issued pursuant to paragraph (2); or

20 “(ii) any of the material elements are
21 knowingly fabricated.

22 “(C) In determining that an application is
23 frivolous, the Secretary or the Attorney Gen-
24 eral, must be satisfied that the applicant, dur-
25 ing the course of the proceedings, has had suffi-

1 cient opportunity to clarify any discrepancies or
2 implausible aspects of the claim.

3 “(D) For purposes of this section, a find-
4 ing that an alien filed a frivolous asylum appli-
5 cation shall not preclude the alien from seeking
6 withholding of removal under section
7 241(b)(3.) or protection pursuant to the Con-
8 vention Against Torture.”.

9 **SEC. 9107. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

10 (a) ASYLUM CREDIBILITY DETERMINATIONS.—Sec-
11 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
12 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
13 after “all relevant factors” the following: “, including
14 statements made to, and investigative reports prepared by,
15 immigration authorities and other government officials”.

16 (b) RELIEF FOR REMOVAL CREDIBILITY DETER-
17 MINATIONS.—Section 240(c)(4)(C) of the Immigration
18 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
19 by inserting after “all relevant factors” the following: “,
20 including statements made to, and investigative reports
21 prepared by, immigration authorities and other govern-
22 ment officials”.

23 **SEC. 9108. PENALTIES FOR ASYLUM FRAUD.**

24 Section 1001 of title 18, United States, Code, is
25 amended by inserting at the end of the paragraph—

1 “(d) Whoever, in any matter before the Secretary of
2 Homeland Security or the Attorney General pertaining to
3 asylum under section 208 of the Immigration and Nation-
4 ality Act or withholding of removal under section
5 241(b)(3) of such Act, knowingly and willfully—

6 “(1) makes any materially false, fictitious, or
7 fraudulent statement or representation; or

8 “(2) makes or uses any false writings or docu-
9 ment knowing the same to contain any materially
10 false, fictitious, or fraudulent statement or entry;
11 shall be fined under this title or imprisoned not more than
12 10 years, or both.”.

13 **SEC. 9109. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

14 Section 3291 of title 18, United States, Code, is
15 amended—

16 (1) by striking “1544,” and inserting “1544,
17 and section 1546,”;

18 (2) by striking “offense.” and inserting “of-
19 fense or within 10 years after the fraud is discov-
20 ered.”.

21 **SEC. 9110. STANDARD OPERATING PROCEDURES; FACILI-**
22 **TIES STANDARDS.**

23 (a) STANDARD OPERATING PROCEDURES.—Section
24 411(k)(1) of the Homeland Security Act of 2002 (6
25 U.S.C. 211(k)) is amended—

1 (1) in subparagraph (D), by striking “and” at
2 the end;

3 (2) in subparagraph (E)(iv), by striking the pe-
4 riod at the end and inserting “; and”; and

5 (3) adding at the end the following:

6 “(F) standard operating procedures re-
7 garding the detection, interdiction, inspection,
8 processing, or transferring of alien children that
9 officers and agents of U.S. Customs and Border
10 Protection shall employ in the execution of their
11 duties.”.

12 (b) FACILITIES STANDARDS.—

13 (1) INITIAL REVIEW AND UPDATE.—Not later
14 than 270 days after the date of the enactment of
15 this Act, the Secretary shall review and update the
16 regulations under part 115 of title 6, Code of Fed-
17 eral Regulations, that set standards to prevent, de-
18 tect, and respond to sexual abuse and assault in im-
19 migration detention facilities and other holding fa-
20 cilities under the jurisdiction of the Department of
21 Homeland Security.

22 (2) QUADRENNIAL REVIEW.—The Secretary
23 shall review and update the regulations referred to
24 in paragraph (1) not less frequently than once every
25 4 years.

1 **SEC. 9111. CRIMINAL BACKGROUND CHECKS FOR SPON-**
2 **SORS OF UNACCOMPANIED ALIEN CHILDREN.**

3 (a) IN GENERAL.—Section 235(c) of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232(c)) is amended—

6 (1) in paragraph (3)—

7 (A) in subparagraph (A), in the first sen-
8 tence, by striking “subparagraph (B)” and in-
9 serting “subparagraphs (B) and (C)”;

10 (B) by redesignating subparagraphs (B)
11 and (C) as subparagraphs (C) and (D), respec-
12 tively;

13 (C) by inserting after subparagraph (A)
14 the following:

15 “(B) CRIMINAL BACKGROUND CHECKS.—

16 “(i) IN GENERAL.—Before placing an
17 unaccompanied alien child with an indi-
18 vidual, the Secretary of Health and
19 Human Services shall—

20 “(I) conduct a criminal history
21 background check on the individual
22 and each adult member of the individ-
23 ual’s household; and

24 “(II) if appropriate, collect bio-
25 metric samples in connection with any
26 such background check.

1 “(ii) SCOPE.—

2 “(I) IN GENERAL.—Each biomet-
3 ric criminal history background check
4 required under clause (i) shall be con-
5 ducted through—

6 “(aa) the Federal Bureau of
7 Investigation;

8 “(bb) criminal history re-
9 positories of each State the indi-
10 vidual lists as a current or
11 former residence; and

12 “(cc) any other Federal or
13 State database or repository the
14 Secretary of Health and Human
15 Services considers appropriate.

16 “(II) USE OF RAPID DNA IN-
17 STRUMENTS.—DNA analysis of a
18 DNA sample collected under sub-
19 clause (I) may be carried out with
20 Rapid DNA instruments (as defined
21 in section 3(c) of the DNA Analysis
22 Backlog Elimination Act of 2000 (34
23 U.S.C. 40702(c)).

24 “(III) LIMITATION ON USE OF
25 BIOMETRIC SAMPLES.—The Secretary

1 of Health and Human Services may
2 not release a fingerprint or DNA sam-
3 ple collected, or disclose the results of
4 a fingerprint or DNA analysis con-
5 ducted under this subparagraph, or
6 any other information obtained pursu-
7 ant to this section, to the Department
8 of Homeland Security for any immi-
9 gration enforcement purpose.

10 “(IV) ACCESS TO INFORMATION
11 THROUGH THE DEPARTMENT OF
12 HOMELAND SECURITY.—Not later
13 than 14 days after receiving a request
14 from the Secretary of Health and
15 Human Services, the Secretary of
16 Homeland Security shall provide in-
17 formation necessary to conduct suit-
18 ability assessments from appropriate
19 Federal, State, and local law enforce-
20 ment and immigration databases.

21 “(iii) PROHIBITION ON PLACEMENT
22 WITH INDIVIDUALS CONVICTED OF CER-
23 TAIN OFFENSES.—The Secretary of Health
24 and Human Services may not place an un-
25 accompanied alien child in the custody or

1 household of an individual who has been
2 convicted of, or is currently being tried
3 for—

4 “(I) a sex offense (as defined in
5 section 111 of the Sex Offender Reg-
6 istration and Notification Act (34
7 U.S.C. 20911));

8 “(II) a crime involving severe
9 forms of trafficking in persons (as de-
10 fined in section 103 of the Trafficking
11 Victims Protection Act of 2000 (22
12 U.S.C. 7102);

13 “(III) a crime of domestic vio-
14 lence (as defined in section 40002(a)
15 of the Violence Against Women Act
16 (34 U.S.C. 12291(a));

17 “(IV) a crime of child abuse and
18 neglect (as defined in section 3 of the
19 Child Abuse Prevention and Treat-
20 ment Act (Public Law 93–247; 42
21 U.S.C. 5101 note));

22 “(V) murder, manslaughter, or
23 an attempt to commit murder or man-
24 slaughter (within the meanings of
25 such terms in sections 1111, 1112,

1 and 1113 of title 18, United States
2 Code); or

3 “(VI) a crime involving receipt,
4 distribution, or possession of a visual
5 depiction of a minor engaging in sexu-
6 ally explicit conduct (within the mean-
7 ings of such terms in section 2252 of
8 title 18, United States Code).”; and

9 (D) by adding at the end the following:

10 “(E) WELL-BEING FOLLOW-UP CALLS.—

11 Not later than 30 days after the date on which
12 an unaccompanied alien child is released from
13 the custody of the Secretary of Health and
14 Human Services, and every 60 days thereafter
15 until the date on which a final decision has
16 been issued in the removal proceedings of the
17 child or such proceedings are terminated, the
18 Secretary shall conduct a follow-up telephone
19 call with the unaccompanied alien child and the
20 child’s custodian or the primary point of con-
21 tact for any other entity with which the child
22 was placed.

23 “(F) CHANGE OF ADDRESS.—The Sec-
24 retary of Health and Human Services shall—

1 “(i) require each custodian with whom
2 an unaccompanied alien child is placed
3 under this subsection to notify the Sec-
4 retary with respect to any change in the
5 unaccompanied alien child’s physical or
6 mailing address, including any situation in
7 which the unaccompanied alien child per-
8 manently departs the custodian’s residence,
9 not later than 7 days after the date on
10 which such change or departure occurs;
11 and

12 “(ii) develop and implement a system
13 that permits custodians to submit notifica-
14 tions electronically with respect to a
15 change of address.”.

16 (b) COLLECTION AND COMPILATION OF STATISTICAL
17 INFORMATION.—Section 462(b)(1)(K) of the Homeland
18 Security Act of 2002 (6 U.S.C. 279(b)(1)(K)) is amended
19 by striking “; and” and inserting “, including—

20 “(i) the average length of time from
21 apprehension to the child’s master cal-
22 endar hearing, organized by the fiscal year
23 in which the children were apprehended by
24 U.S. Customs and Border Protection;

1 “(ii) the number of children identified
2 under clause (i) who did and did not ap-
3 pear at master calendar hearings, includ-
4 ing the percentage of children in each cat-
5 egory who were represented by counsel;

6 “(iii) the average length of time from
7 apprehension to the child’s merits hearing,
8 organized by the fiscal year in which the
9 children were apprehended by U.S. Cus-
10 toms and Border Protection;

11 “(iv) the number of children identified
12 under clause (i) who did and did not ap-
13 pear at merits hearings, including the per-
14 centage of children in each category who
15 are represented by counsel; and

16 “(v) the total number of well-being
17 follow-up calls conducted under section
18 235 of the William Wilberforce Trafficking
19 Victims Protection Reauthorization Act of
20 2008 (8 U.S.C. 1232(c)(3)(E)) at each
21 time interval following placement with a
22 custodian or other entity, and the number
23 of children that the Secretary of Health
24 and Human Services is unable to contact
25 at each interval, organized by the fiscal

1 year in which the children were appre-
2 hended by U.S. Customs and Border Pro-
3 tection; and”.

4 **SEC. 9112. FRAUD IN CONNECTION WITH THE TRANSFER OF**
5 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
6 **DREN.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 1041. Fraud in connection with the transfer of cus-**
11 **tody of unaccompanied alien children**

12 “(a) IN GENERAL.—It shall be unlawful for a person
13 to obtain custody of an unaccompanied alien child (as de-
14 fined in section 462(g) of the Homeland Security Act of
15 2002 (6 U.S.C. 279(g))—

16 “(1) by making any materially false, fictitious,
17 or fraudulent statement or representation; or

18 “(2) by making or using any false writing or
19 document with the knowledge that such writing or
20 document contains any materially false, fictitious, or
21 fraudulent statement or entry.

22 “(b) PENALTIES.—

23 “(1) IN GENERAL.—Any person who violates, or
24 attempts or conspires to violate, subsection (a) shall

1 be fined under this title and imprisoned for not less
2 than 1 year.

3 “(2) ENHANCED PENALTY FOR TRAF-
4 FICKING.—If the primary purpose of a violation, at-
5 tempted violation, or conspiracy to violate this sec-
6 tion was to subject the child to sexually explicit ac-
7 tivity or any other form of exploitation, the offender
8 shall be fined under this title and imprisoned for not
9 less than 15 years.”.

10 (b) CLERICAL AMENDMENT.—The chapter analysis
11 for chapter 47 of title 18, United States Code, is amended
12 by adding at the end the following:

13 **SEC. 9113. HIRING AUTHORITY.**

14 (a) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
15 MENT.—

16 (1) IN GENERAL.—The Director of U.S. Immi-
17 gration and Customs Enforcement shall hire, train,
18 and assign—

19 (A) not fewer than 300 Enforcement and
20 Removal Operations support personnel to ad-
21 dress case management responsibilities relating
22 to aliens apprehended along the southwest bor-
23 der, and the operation of regional processing
24 centers established under section 437(a) of the
25 Homeland Security Act of 2002;

1 (B) not fewer than 128 attorneys in the
2 Office of the Principal Legal Advisor; and

3 (C) not fewer than 41 support staff within
4 the Office of the Principal Legal Advisor to as-
5 sist immigration judges within the Executive
6 Office for Immigration Review with removal,
7 asylum, and custody determination proceedings.

8 (2) GAO REVIEW AND REPORT RELATING TO
9 STAFFING NEEDS.—

10 (A) REVIEW.—The Comptroller General of
11 the United States shall conduct a review of—

12 (i) U.S. Immigration and Customs
13 Enforcement activities and staffing needs
14 related to irregular migration influx events
15 along the southwest border during fiscal
16 years 2014, 2019, and 2021, including—

17 (I) the total number of aliens
18 placed in removal proceedings in con-
19 nection with such irregular migration
20 influx events;

21 (II) the number of hours dedi-
22 cated to responding to irregular mi-
23 gration influx events by Enforcement
24 and Removal Operations officers, En-
25 forcement and Removal Operations

1 support personnel, attorneys within
2 the Office of the Principal Legal Advi-
3 sor, and support staff within the Of-
4 fice of the Principal Legal Advisor;
5 and

6 (III) the impact that response to
7 such irregular migration influx events
8 had on the ability of U.S. Immigra-
9 tion and Customs Enforcement to
10 carry out other aspects of its mission,
11 including the regular transport of mi-
12 grants from U.S. Customs and Border
13 Protection facilities to U.S. Immigra-
14 tion and Customs Enforcement facili-
15 ties; and

16 (ii) staffing levels within the Office of
17 the Principal Legal Advisor, U.S. Immi-
18 gration and Customs Enforcement, includ-
19 ing the impact such staffing levels have on
20 docketing of cases within the Executive Of-
21 fice for Immigration Review.

22 (B) REPORT.—Not later than 1 year after
23 the date of the enactment of this Act, the
24 Comptroller General shall submit to the appro-
25 priate committees of Congress a report that de-

1 scribes the results of the review conducted
2 under subparagraph (A).

3 (b) EXECUTIVE OFFICE FOR IMMIGRATION RE-
4 VIEW.—The Director of the Executive Office for Immigra-
5 tion Review shall hire, train, and assign not fewer than
6 150 new Immigration Judge teams, including staff attor-
7 neys and all applicable support staff for such Immigration
8 Judge teams.

9 (c) U.S. CITIZENSHIP AND IMMIGRATION SERV-
10 ICES.—The Director of U.S. Citizenship and Immigration
11 Services shall hire, train, and assign not fewer than 300
12 asylum officers.

“1041. Fraud in connection with the transfer of custody of unaccompanied alien
children.”.

13 **TITLE Z—RULE OF LAW, SECU-**
14 **RITY, AND ECONOMIC DEVEL-**
15 **OPMENT IN CENTRAL AMER-**
16 **ICA**

17 **Subtitle A—Promoting the Rule of**
18 **Law, Security, and Economic**
19 **Development in Central Amer-**
20 **ica**

21 **SEC. 10101. UNITED STATES STRATEGY FOR ENGAGEMENT**
22 **IN CENTRAL AMERICA.**

23 (a) IN GENERAL.—The Secretary of State shall im-
24 plement a 4-year strategy, to be known as the “United

1 States Strategy for Engagement in Central America” (re-
2 ferred to in this subtitle as the “Strategy”)—

3 (1) to advance reforms in Central America; and

4 (2) to address the key factors contributing to
5 the flight of families, unaccompanied noncitizen chil-
6 dren, and other individuals from Central America to
7 the United States.

8 (b) ELEMENTS.—The Strategy shall include efforts—

9 (1) to strengthen democratic governance, ac-
10 countability, transparency, and the rule of law;

11 (2) to combat corruption and impunity;

12 (3) to improve access to justice;

13 (4) to bolster the effectiveness and independ-
14 ence of judicial systems and public prosecutors’ of-
15 fices;

16 (5) to improve the effectiveness of civilian police
17 forces;

18 (6) to confront and counter the violence, extor-
19 tion, and other crimes perpetrated by armed crimi-
20 nal gangs, illicit trafficking organizations, and orga-
21 nized crime, while disrupting recruitment efforts by
22 such organizations;

23 (7) to disrupt money laundering and other illicit
24 financial operations of criminal networks, armed

1 gangs, illicit trafficking organizations, and human
2 smuggling networks;

3 (8) to promote greater respect for internation-
4 ally recognized human rights, labor rights, funda-
5 mental freedoms, and the media;

6 (9) to enhance accountability for government
7 officials, including police and security force per-
8 sonnel, who are credibly alleged to have committed
9 serious violations of human rights or other crimes;

10 (10) to enhance the capability of governments
11 in Central America to protect and provide for vul-
12 nerable and at-risk populations;

13 (11) to address the underlying causes of pov-
14 erty and inequality and the constraints to inclusive
15 economic growth in Central America; and

16 (12) to prevent and respond to endemic levels
17 of sexual, gender-based, and domestic violence.

18 (c) COORDINATION AND CONSULTATION.—In imple-
19 menting the Strategy, the Secretary of State shall—

20 (1) coordinate with the Secretary of the Treas-
21 ury, the Secretary of Defense, the Secretary, the At-
22 torney General, the Administrator of the United
23 States Agency for International Development, and
24 the Chief Executive Officer of the United States De-
25 velopment Finance Corporation; and

1 (2) consult with the Director of National Intel-
2 ligence, national and local civil society organizations
3 in Central America and the United States, and the
4 governments of Central America.

5 (d) SUPPORT FOR CENTRAL AMERICAN EFFORTS.—
6 To the degree feasible, the Strategy shall support or com-
7 plement efforts being carried out by the Governments of
8 El Salvador, of Guatemala, and of Honduras, in coordina-
9 tion with bilateral and multilateral donors and partners,
10 including the Inter-American Development Bank.

11 **SEC. 10102. SECURING SUPPORT OF INTERNATIONAL DO-**
12 **NORS AND PARTNERS.**

13 (a) PLAN.—The Secretary of State shall implement
14 a 4-year plan—

15 (1) to secure support from international donors
16 and regional partners to enhance the implementation
17 of the Strategy;

18 (2) to identify governments that are willing to
19 provide financial and technical assistance for the im-
20 plementation of the Strategy and the specific assist-
21 ance that will be provided; and

22 (3) to identify and describe the financial and
23 technical assistance to be provided by multilateral
24 institutions, including the Inter-American Develop-
25 ment Bank, the World Bank, the International Mon-

1 etary Fund, the Andean Development Corporation—
2 Development Bank of Latin America, and the Orga-
3 nization of American States.

4 (b) DIPLOMATIC ENGAGEMENT AND COORDINA-
5 TION.—The Secretary of State, in coordination with the
6 Secretary of the Treasury, as appropriate, shall—

7 (1) carry out diplomatic engagement to secure
8 contributions of financial and technical assistance
9 from international donors and partners in support of
10 the Strategy; and

11 (2) take all necessary steps to ensure effective
12 cooperation among international donors and part-
13 ners supporting the Strategy.

14 **SEC. 10103. COMBATING CORRUPTION, STRENGTHENING**
15 **THE RULE OF LAW, AND CONSOLIDATING**
16 **DEMOCRATIC GOVERNANCE.**

17 The Secretary of State and the Administrator of the
18 United States Agency for International Development are
19 authorized—

20 (1) to combat corruption in Central America by
21 supporting—

22 (A) Inspectors General and oversight insti-
23 tutions, including—

24 (i) support for multilateral support
25 missions for key ministries, including min-

1 istries responsible for tax, customs, pro-
2 curement, and citizen security; and

3 (ii) relevant training for inspectors
4 and auditors;

5 (B) multilateral support missions against
6 corruption and impunity;

7 (C) civil society organizations conducting
8 oversight of executive and legislative branch of-
9 ficials and functions, police and security forces,
10 and judicial officials and public prosecutors;
11 and

12 (D) the enhancement of freedom of infor-
13 mation mechanisms;

14 (2) to strengthen the rule of law in Central
15 America by supporting—

16 (A) Attorney General offices, public pros-
17 ecutors, and the judiciary, including enhancing
18 investigative and forensics capabilities;

19 (B) an independent, merit-based selection
20 processes for judges and prosecutors, inde-
21 pendent internal controls, and relevant ethics
22 and professional training, including training on
23 sexual, gender-based, and domestic violence;

24 (C) improved victim, witness, and whistle-
25 blower protection and access to justice; and

1 (D) reforms to and the improvement of
2 prison facilities and management;

3 (3) to consolidate democratic governance in
4 Central America by supporting—

5 (A) reforms of civil services, related train-
6 ing programs, and relevant laws and processes
7 that lead to independent, merit-based selection
8 processes;

9 (B) national legislatures and their capacity
10 to conduct oversight of executive branch func-
11 tions;

12 (C) reforms to, and strengthening of, polit-
13 ical party and campaign finance laws and elec-
14 toral tribunals;

15 (D) local governments and their capacity
16 to provide critical safety, education, health, and
17 sanitation services to citizens; and

18 (4) to defend human rights by supporting—

19 (A) human rights ombudsman offices;

20 (B) government protection programs that
21 provide physical protection and security to
22 human rights defenders, journalists, trade
23 unionists, whistleblowers, and civil society activ-
24 ists who are at risk;

1 (C) civil society organizations that promote
2 and defend human rights; and

3 (D) civil society organizations that address
4 sexual, gender-based, and domestic violence,
5 and that protect victims of such violence.

6 **SEC. 10104. COMBATING CRIMINAL VIOLENCE AND IMPROV-**
7 **ING CITIZEN SECURITY.**

8 The Secretary of State and the Administrator of the
9 United States Agency for International Development are
10 authorized—

11 (1) to counter the violence and crime per-
12 petrated by armed criminal gangs, illicit trafficking
13 organizations, and human smuggling networks in
14 Central America by providing assistance to civilian
15 law enforcement, including support for—

16 (A) the execution and management of com-
17 plex, multi-actor criminal cases;

18 (B) the enhancement of intelligence collec-
19 tion capacity, and training on civilian intel-
20 ligence collection (including safeguards for pri-
21 vacy and basic civil liberties), investigative tech-
22 niques, forensic analysis, and evidence preserva-
23 tion;

24 (C) community policing policies and pro-
25 grams;

1 (D) the enhancement of capacity to iden-
2 tify, investigate, and prosecute crimes involving
3 sexual, gender-based, and domestic violence;
4 and

5 (E) port, airport, and border security offi-
6 cials, agencies and systems, including—

7 (i) the professionalization of immigra-
8 tion personnel;

9 (ii) improvements to computer infra-
10 structure and data management systems,
11 secure communications technologies, non-
12 intrusive inspection equipment, and radar
13 and aerial surveillance equipment; and

14 (iii) assistance to canine units;

15 (2) to disrupt illicit financial networks in Cen-
16 tral America, including by supporting—

17 (A) finance ministries, including the impo-
18 sition of financial sanctions to block the assets
19 of individuals and organizations involved in
20 money laundering or the financing of armed
21 criminal gangs, illicit trafficking networks,
22 human smuggling networks, or organized crime;

23 (B) financial intelligence units, including
24 the establishment and enhancement of anti-
25 money laundering programs; and

1 (C) the reform of bank secrecy laws;

2 (3) to assist in the professionalization of civilian
3 police forces in Central America by supporting—

4 (A) reforms with respect to personnel re-
5 cruitment, vetting, and dismissal processes, in-
6 cluding the enhancement of polygraph capa-
7 bility for use in such processes;

8 (B) Inspectors General and oversight of-
9 fices, including relevant training for inspectors
10 and auditors, and independent oversight mecha-
11 nisms, as appropriate; and

12 (C) training and the development of proto-
13 cols regarding the appropriate use of force and
14 human rights;

15 (4) to improve crime prevention and to reduce
16 violence, extortion, child recruitment into gangs, and
17 sexual slavery by supporting—

18 (A) the improvement of child protection
19 systems;

20 (B) the enhancement of programs for at-
21 risk youth, including the improvement of com-
22 munity centers and programs aimed at success-
23 fully reinserting former gang members;

24 (C) livelihood programming that provides
25 youth and other at-risk individuals with legal

1 and sustainable alternatives to gang member-
2 ship;

3 (D) safe shelter and humanitarian re-
4 sponses for victims of crime and internal dis-
5 placement; and

6 (E) programs to receive and effectively re-
7 integrate repatriated migrants in El Salvador,
8 Guatemala, and Honduras.

9 **SEC. 10105. COMBATING SEXUAL, GENDER-BASED, AND DO-**
10 **MESTIC VIOLENCE.**

11 The Secretary of State and the Administrator of the
12 United States Agency for International Development are
13 authorized to counter sexual, gender-based, and domestic
14 violence in Central American countries by—

15 (1) broadening engagement among national and
16 local institutions to address sexual, gender-based,
17 and domestic violence;

18 (2) supporting educational initiatives to reduce
19 sexual, gender-based, and domestic violence;

20 (3) supporting outreach efforts tailored to meet
21 the needs of women, girls, and other vulnerable indi-
22 viduals at risk of violence and exploitation;

23 (4) formalizing standards of care and confiden-
24 tiality at police, health facilities, and other govern-
25 ment facilities; and

1 (5) establishing accountability mechanisms for
2 perpetrators of violence.

3 **Subtitle B—Information Campaign**
4 **on the Dangers of Irregular Mi-**
5 **gration**

6 **SEC. 10201. INFORMATION CAMPAIGN ON DANGERS OF IR-**
7 **REGULAR MIGRATION.**

8 (a) **IN GENERAL.**—The Secretary of State, in coordi-
9 nation with the Secretary, shall design and implement
10 public information campaigns in El Salvador, Guatemala,
11 Honduras, and other appropriate Central American coun-
12 tries—

13 (1) to disseminate information about the poten-
14 tial dangers of travel to the United States;

15 (2) to provide accurate information about
16 United States immigration law and policy; and

17 (3) to provide accurate information about the
18 availability of asylum, other humanitarian protec-
19 tions in countries in the Western Hemisphere, and
20 other legal means for migration.

21 (b) **ELEMENTS.**—The information campaigns imple-
22 mented pursuant to subsection (a), to the greatest extent
23 possible—

1 (1) shall be targeted at regions with high levels
2 of outbound migration or significant populations of
3 internally displaced persons;

4 (2) shall include examples of valid and invalid
5 asylum claims;

6 (3) shall be conducted in local languages;

7 (4) shall employ a variety of communications
8 media, including social media; and

9 (5) shall be developed in coordination with pro-
10 gram officials at the Department of Homeland Secu-
11 rity, the Department of State, and other govern-
12 ment, nonprofit, or academic entities in close contact
13 with migrant populations from El Salvador, Guate-
14 mala, and Honduras, including repatriated migrants.

15 **Subtitle C—Cracking Down on** 16 **Criminal Organizations**

17 **SEC. 10301. ENHANCED INVESTIGATION AND PROSECUTION** 18 **OF HUMAN SMUGGLING NETWORKS AND** 19 **TRAFFICKING ORGANIZATIONS.**

20 The Attorney General and the Secretary shall expand
21 collaboration on the investigation and prosecution of
22 human smuggling networks and trafficking organizations
23 targeting migrants, asylum seekers, and unaccompanied
24 children and operating at the southwestern border of the

1 United States, including the continuation and expansion
2 of anti-trafficking coordination teams.

3 **SEC. 10302. ENHANCED PENALTIES FOR ORGANIZED SMUG-**
4 **GLING SCHEMES.**

5 (a) IN GENERAL.—Section 274(a)(1)(B) of the Im-
6 migration and Nationality Act (8 U.S.C. 1324(a)(1)(B))
7 is amended—

8 (1) by redesignating clauses (iii) and (iv) as
9 clauses (iv) and (v), respectively;

10 (2) by inserting after clause (ii) the following:

11 “(iii) in the case of a violation of subparagraph
12 (A)(i) during and in relation to which the person,
13 while acting for profit or other financial gain, know-
14 ingly directs or participates in a scheme to cause
15 any person (other than a parent, spouse, sibling, son
16 or daughter, grandparent, or grandchild of the of-
17 fender) to enter or to attempt to enter the United
18 States at the same time at a place other than a des-
19 ignated port of entry or place other than designated
20 by the Secretary, be fined under title 18, United
21 States Code, imprisoned not more than 20 years, or
22 both;” and

23 (3) in clause (iv), as redesignated, by inserting
24 “commits or attempts to commit sexual assault of,”

1 after “section 1365 of title 18, United States Code)
2 to,”.

3 (b) BULK CASH SMUGGLING.—Section 5332(b)(1) of
4 title 31, United States Code, is amended—

5 (1) in the paragraph heading, by striking
6 “TERM OF IMPRISONMENT.—” and inserting “IN
7 GENERAL.—”; and

8 (2) by striking “5 years” and inserting “10
9 years, fined under title 18, or both”.

10 **SEC. 10303. EXPANDING FINANCIAL SANCTIONS ON NAR-**
11 **COTICS TRAFFICKING AND MONEY LAUN-**
12 **DERING.**

13 (a) FINANCIAL SANCTIONS EXPANSION.—The Sec-
14 retary of the Treasury, the Attorney General, the Sec-
15 retary of State, the Secretary of Defense, and the Director
16 of Central Intelligence shall expand investigations, intel-
17 ligence collection, and analysis pursuant to the Foreign
18 Narcotics Kingpin Designation Act (21 U.S.C. 1901 et
19 seq.) to increase the identification and application of sanc-
20 tions against—

21 (1) significant foreign narcotics traffickers and
22 their organizations and networks; and

23 (2) foreign persons, including government offi-
24 cials, who provide material, financial, or techno-

1 logical support to such traffickers, organizations, or
2 networks.

3 (b) SPECIFIC TARGETS.—The activities described in
4 subsection (a) shall specifically target foreign narcotics
5 traffickers, their organizations and networks, and the for-
6 eign persons, including government officials, who provide
7 material, financial, or technological support to such traf-
8 fickers, organizations, and networks that are present and
9 operating in Central America.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as may be
12 necessary to carry out subsection (a).

13 **SEC. 10304. SUPPORT FOR TRANSNATIONAL ANTI-GANG**
14 **TASK FORCES FOR COUNTERING CRIMINAL**
15 **GANGS.**

16 The Director of the Federal Bureau of Investigation,
17 the Director of the Drug Enforcement Administration, the
18 Director of Homeland Security Investigations, and the
19 Secretary, in coordination with the Secretary of State,
20 shall expand the use of transnational task forces that seek
21 to address transnational crime perpetrated by gangs in El
22 Salvador, Guatemala, Honduras, and any other identified
23 country by—

1 (1) expanding transnational criminal investiga-
2 tions focused on criminal gangs in identified coun-
3 tries, such as MS-13 and 18th Street;

4 (2) expanding training and partnership efforts
5 with law enforcement entities in identified countries
6 to disrupt and dismantle criminal gangs, both inter-
7 nationally and in their respective countries;

8 (3) establishing or expanding gang-related in-
9 vestigative units;

10 (4) collecting and disseminating intelligence to
11 support related United States-based investigations;
12 and

13 (5) expanding programming related to gang
14 intervention and prevention for at-risk youth.

15 **DIVISION B—AMERICAN DREAM** 16 **AND PROMISE**

17 **SEC. 1. SHORT TITLE.**

18 This division may be cited as the “American Dream
19 and Promise Act”.

20 **TITLE I—DREAM ACT**

21 **SEC. 1101. SHORT TITLE.**

22 This title may be cited as the “Dream Act”.

1 **SEC. 1102. PERMANENT RESIDENT STATUS ON A CONDI-**
2 **TIONAL BASIS FOR CERTAIN LONG-TERM**
3 **RESIDENTS WHO ENTERED THE UNITED**
4 **STATES AS CHILDREN.**

5 (a) **CONDITIONAL BASIS FOR STATUS.**—Notwith-
6 standing any other provision of law, and except as pro-
7 vided in section 1104(c)(2), an alien shall be considered,
8 at the time of obtaining the status of an alien lawfully
9 admitted for permanent residence under this section, to
10 have obtained such status on a conditional basis subject
11 to the provisions of this title.

12 (b) **REQUIREMENTS.**—

13 (1) **IN GENERAL.**—Notwithstanding any other
14 provision of law, the Secretary or the Attorney Gen-
15 eral shall adjust to the status of an alien lawfully
16 admitted for permanent residence on a conditional
17 basis, or without the conditional basis as provided in
18 section 1104(c)(2), an alien who is inadmissible or
19 deportable from the United States, is subject to a
20 grant of Deferred Enforced Departure, has tem-
21 porary protected status under section 244 of the Im-
22 migration and Nationality Act (8 U.S.C. 1254a), or
23 is the son or daughter of an alien admitted as a non-
24 immigrant under subparagraphs (E)(i), (E)(ii),
25 (H)(i)(b), or (L) of section 101(a)(15) of such Act
26 (8 U.S.C. 1101(a)(15)) if—

1 (A) the alien has been continuously phys-
2 ically present in the United States since July 4,
3 2017;

4 (B) the alien was younger than 18 years of
5 age on the date on which the alien entered the
6 United States and has continuously resided in
7 the United States since such entry;

8 (C) the alien—

9 (i) subject to paragraph (2), is not in-
10 admissible under paragraph (1), (6)(E),
11 (6)(G), (8), or (10) of section 212(a) of
12 the Immigration and Nationality Act (8
13 U.S.C. 1182(a));

14 (ii) has not ordered, incited, assisted,
15 or otherwise participated in the persecution
16 of any person on account of race, religion,
17 nationality, membership in a particular so-
18 cial group, or political opinion; and

19 (iii) is not barred from adjustment of
20 status under this title based on the crimi-
21 nal and national security grounds de-
22 scribed under subsection (c), subject to the
23 provisions of such subsection; and

24 (D) the alien—

1 (i) has been admitted to an institution
2 of higher education;

3 (ii) has been admitted to an area ca-
4 reer and technical education school at the
5 postsecondary level;

6 (iii) in the United States, has ob-
7 tained—

8 (I) a high school diploma or a
9 commensurate alternative award from
10 a public or private high school;

11 (II) a General Education Devel-
12 opment credential, a high school
13 equivalency diploma recognized under
14 State law, or another similar State-
15 authorized credential;

16 (III) a credential or certificate
17 from an area career and technical
18 education school at the secondary
19 level; or

20 (IV) a recognized postsecondary
21 credential; or

22 (iv) is enrolled in secondary school or
23 in an education program assisting students
24 in—

1 (I) obtaining a high school di-
2 ploma or its recognized equivalent
3 under State law;

4 (II) passing the General Edu-
5 cation Development test, a high school
6 equivalence diploma examination, or
7 other similar State-authorized exam;

8 (III) obtaining a certificate or
9 credential from an area career and
10 technical education school providing
11 education at the secondary level; or

12 (IV) obtaining a recognized post-
13 secondary credential.

14 (2) WAIVER OF GROUNDS OF INADMIS-
15 SIBILITY.—With respect to any benefit under this
16 title, and in addition to the waivers under subsection
17 (c)(2), the Secretary may waive the grounds of inad-
18 missibility under paragraph (1), (6)(E), (6)(G), or
19 (10)(D) of section 212(a) of the Immigration and
20 Nationality Act (8 U.S.C. 1182(a)) for humanitarian
21 purposes, for family unity, or because the waiver is
22 otherwise in the public interest.

23 (3) APPLICATION FEE.—

24 (A) IN GENERAL.—The Secretary may,
25 subject to an exemption under section 3103(c),

1 require an alien applying under this section to
2 pay a reasonable fee that is commensurate with
3 the cost of processing the application but does
4 not exceed \$495.00.

5 (B) SPECIAL PROCEDURES FOR APPLI-
6 CANTS WITH DACA.—The Secretary shall estab-
7 lish a streamlined procedure for aliens who have
8 been granted DACA and who meet the require-
9 ments for renewal (under the terms of the pro-
10 gram in effect on January 1, 2017) to apply for
11 adjustment of status to that of an alien lawfully
12 admitted for permanent residence on a condi-
13 tional basis under this section, or without the
14 conditional basis as provided in section
15 1104(c)(2). Such procedure shall not include a
16 requirement that the applicant pay a fee, except
17 that the Secretary may require an applicant
18 who meets the requirements for lawful perma-
19 nent residence without the conditional basis
20 under section 1104(c)(2) to pay a fee that is
21 commensurate with the cost of processing the
22 application, subject to the exemption under sec-
23 tion 3103(e).

24 (4) BACKGROUND CHECKS.—The Secretary
25 may not grant an alien permanent resident status on

1 a conditional basis under this section until the re-
2 quirements of section 3102 are satisfied.

3 (5) MILITARY SELECTIVE SERVICE.—An alien
4 applying for permanent resident status on a condi-
5 tional basis under this section, or without the condi-
6 tional basis as provided in section 1104(c)(2), shall
7 establish that the alien has registered under the
8 Military Selective Service Act (50 U.S.C. 3801 et
9 seq.), if the alien is subject to registration under
10 such Act.

11 (c) CRIMINAL AND NATIONAL SECURITY BARS.—

12 (1) GROUNDS OF INELIGIBILITY.—Except as
13 provided in paragraph (2), an alien is ineligible for
14 adjustment of status under this title (whether on a
15 conditional basis or without the conditional basis as
16 provided in section 1104(c)(2)) if any of the fol-
17 lowing apply:

18 (A) The alien is inadmissible under para-
19 graph (2) or (3) of section 212(a) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1182(a)).

21 (B) Excluding any offense under State law
22 for which an essential element is the alien's im-
23 migration status, and any minor traffic offense,
24 the alien has been convicted of—

25 (i) any felony offense;

1 (ii) two or more misdemeanor offenses
2 (excluding simple possession of cannabis or
3 cannabis-related paraphernalia, any offense
4 involving cannabis or cannabis-related par-
5 aphernalia which is no longer prosecutable
6 in the State in which the conviction was
7 entered, and any offense involving civil dis-
8 obedience without violence) not occurring
9 on the same date, and not arising out of
10 the same act, omission, or scheme of mis-
11 conduct; or

12 (iii) a misdemeanor offense of domes-
13 tic violence, unless the alien demonstrates
14 that such crime is related to the alien hav-
15 ing been—

16 (I) a victim of domestic violence,
17 sexual assault, stalking, child abuse or
18 neglect, abuse or neglect in later life,
19 or human trafficking;

20 (II) battered or subjected to ex-
21 treme cruelty; or

22 (III) a victim of criminal activity
23 described in section 101(a)(15)(U)(iii)
24 of the Immigration and Nationality
25 Act (8 U.S.C. 1101(a)(15)(U)(iii)).

1 (2) WAIVERS FOR CERTAIN MISDEMEANORS.—

2 For humanitarian purposes, family unity, or if oth-
3 erwise in the public interest, the Secretary may—

4 (A) waive the grounds of inadmissibility
5 under subparagraphs (A), (C), and (D) of sec-
6 tion 212(a)(2) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1182(a)(2)), unless the con-
8 viction forming the basis for inadmissibility
9 would otherwise render the alien ineligible
10 under paragraph (1)(B) (subject to subpara-
11 graph (B)); and

12 (B) for purposes of clauses (ii) and (iii) of
13 paragraph (1)(B), waive consideration of—

14 (i) one misdemeanor offense if the
15 alien has not been convicted of any offense
16 in the 5-year period preceding the date on
17 which the alien applies for adjustment of
18 status under this title; or

19 (ii) up to two misdemeanor offenses if
20 the alien has not been convicted of any of-
21 fense in the 10-year period preceding the
22 date on which the alien applies for adjust-
23 ment of status under this title.

24 (3) AUTHORITY TO CONDUCT SECONDARY RE-
25 VIEW.—

1 (A) IN GENERAL.—Notwithstanding an
2 alien’s eligibility for adjustment of status under
3 this title, and subject to the procedures de-
4 scribed in this paragraph, the Secretary may,
5 as a matter of non-delegable discretion, provi-
6 sionally deny an application for adjustment of
7 status (whether on a conditional basis or with-
8 out the conditional basis as provided in section
9 1104(c)(2)) if the Secretary, based on clear and
10 convincing evidence, which shall include credible
11 law enforcement information, determines that
12 the alien is described in subparagraph (B) or
13 (D).

14 (B) PUBLIC SAFETY.—An alien is de-
15 scribed in this subparagraph if—

16 (i) excluding simple possession of can-
17 nabis or cannabis-related paraphernalia,
18 any offense involving cannabis or cannabis-
19 related paraphernalia which is no longer
20 prosecutable in the State in which the con-
21 viction was entered, any offense under
22 State law for which an essential element is
23 the alien’s immigration status, any offense
24 involving civil disobedience without vio-

1 lence, and any minor traffic offense, the
2 alien—

3 (I) has been convicted of a mis-
4 demeanor offense punishable by a
5 term of imprisonment of more than
6 30 days; or

7 (II) has been adjudicated delin-
8 quent in a State or local juvenile court
9 proceeding that resulted in a disposi-
10 tion ordering placement in a secure
11 facility; and

12 (ii) the alien poses a significant and
13 continuing threat to public safety related
14 to such conviction or adjudication.

15 (C) PUBLIC SAFETY DETERMINATION.—

16 For purposes of subparagraph (B)(ii), the Sec-
17 retary shall consider the recency of the convic-
18 tion or adjudication; the length of any imposed
19 sentence or placement; the nature and serious-
20 ness of the conviction or adjudication, including
21 whether the elements of the offense include the
22 unlawful possession or use of a deadly weapon
23 to commit an offense or other conduct intended
24 to cause serious bodily injury; and any miti-

1 gating factors pertaining to the alien's role in
2 the commission of the offense.

3 (D) GANG PARTICIPATION.—An alien is
4 described in this subparagraph if the alien has,
5 within the 5 years immediately preceding the
6 date of the application, knowingly, willfully, and
7 voluntarily participated in offenses committed
8 by a criminal street gang (as described in sub-
9 sections (a) and (c) of section 521 of title 18,
10 United States Code) with the intent to promote
11 or further the commission of such offenses.

12 (E) EVIDENTIARY LIMITATION.—For pur-
13 poses of subparagraph (D), allegations of gang
14 membership obtained from a State or Federal
15 in-house or local database, or a network of
16 databases used for the purpose of recording and
17 sharing activities of alleged gang members
18 across law enforcement agencies, shall not es-
19 tablish the participation described in such para-
20 graph.

21 (F) NOTICE.—

22 (i) IN GENERAL.—Prior to rendering
23 a discretionary decision under this para-
24 graph, the Secretary shall provide written
25 notice of the intent to provisionally deny

1 the application to the alien (or the alien's
2 counsel of record, if any) by certified mail
3 and, if an electronic mail address is pro-
4 vided, by electronic mail (or other form of
5 electronic communication). Such notice
6 shall—

7 (I) articulate with specificity all
8 grounds for the preliminary deter-
9 mination, including the evidence relied
10 upon to support the determination;
11 and

12 (II) provide the alien with not
13 less than 90 days to respond.

14 (ii) SECOND NOTICE.—Not more than
15 30 days after the issuance of the notice
16 under clause (i), the Secretary shall pro-
17 vide a second written notice that meets the
18 requirements of such clause.

19 (iii) NOTICE NOT RECEIVED.—Not-
20 withstanding any other provision of law, if
21 an applicant provides good cause for not
22 contesting a provisional denial under this
23 paragraph, including a failure to receive
24 notice as required under this subpara-
25 graph, the Secretary shall, upon a motion

1 filed by the alien, reopen an application for
2 adjustment of status under this title and
3 allow the applicant an opportunity to re-
4 spond, consistent with clause (i)(II).

5 (G) JUDICIAL REVIEW OF A PROVISIONAL
6 DENIAL.—

7 (i) IN GENERAL.—Notwithstanding
8 any other provision of law, if, after notice
9 and the opportunity to respond under sub-
10 paragraph (F), the Secretary provisionally
11 denies an application for adjustment of
12 status under this Act, the alien shall have
13 60 days from the date of the Secretary's
14 determination to seek review of such deter-
15 mination in an appropriate United States
16 district court.

17 (ii) SCOPE OF REVIEW AND DECI-
18 SION.—Notwithstanding any other provi-
19 sion of law, review under paragraph (1)
20 shall be de novo and based solely on the
21 administrative record, except that the ap-
22 plicant shall be given the opportunity to
23 supplement the administrative record and
24 the Secretary shall be given the oppor-
25 tunity to rebut the evidence and arguments

1 raised in such submission. Upon issuing its
2 decision, the court shall remand the mat-
3 ter, with appropriate instructions, to the
4 Department of Homeland Security to
5 render a final decision on the application.

6 (iii) APPOINTED COUNSEL.—Notwith-
7 standing any other provision of law, an ap-
8 plicant seeking judicial review under clause
9 (i) shall be represented by counsel. Upon
10 the request of the applicant, counsel shall
11 be appointed for the applicant, in accord-
12 ance with procedures to be established by
13 the Attorney General within 90 days of the
14 date of the enactment of this Act, and
15 shall be funded in accordance with fees col-
16 lected and deposited in the Immigration
17 Counsel Account under section 3112.

18 (4) DEFINITIONS.—For purposes of this sub-
19 section—

20 (A) the term “felony offense” means an of-
21 fense under Federal or State law that is pun-
22 ishable by a maximum term of imprisonment of
23 more than 1 year;

24 (B) the term “misdemeanor offense”
25 means an offense under Federal or State law

1 that is punishable by a term of imprisonment of
2 more than 5 days but not more than 1 year;
3 and

4 (C) the term “crime of domestic violence”
5 means any offense that has as an element the
6 use, attempted use, or threatened use of phys-
7 ical force against a person committed by a cur-
8 rent or former spouse of the person, by an indi-
9 vidual with whom the person shares a child in
10 common, by an individual who is cohabiting
11 with or has cohabited with the person as a
12 spouse, by an individual similarly situated to a
13 spouse of the person under the domestic or
14 family violence laws of the jurisdiction where
15 the offense occurs, or by any other individual
16 against a person who is protected from that in-
17 dividual’s acts under the domestic or family vio-
18 lence laws of the United States or any State,
19 Indian Tribal government, or unit of local gov-
20 ernment.

21 (d) LIMITATION ON REMOVAL OF CERTAIN ALIEN
22 MINORS.—An alien who is 18 years of age or younger and
23 meets the requirements under subparagraphs (A), (B),
24 and (C) of subsection (b)(1) shall be provided a reasonable
25 opportunity to meet the educational requirements under

1 subparagraph (D) of such subsection. The Attorney Gen-
2 eral or the Secretary may not commence or continue with
3 removal proceedings against such an alien.

4 (e) WITHDRAWAL OF APPLICATION.—The Secretary
5 shall, upon receipt of a request to withdraw an application
6 for adjustment of status under this section, cease proc-
7 essing of the application, and close the case. Withdrawal
8 of the application under this subsection shall not prejudice
9 any future application filed by the applicant for any immi-
10 gration benefit under this title or under the Immigration
11 and Nationality Act (8 U.S.C. 1101 et seq.).

12 **SEC. 1103. TERMS OF PERMANENT RESIDENT STATUS ON A**
13 **CONDITIONAL BASIS.**

14 (a) PERIOD OF STATUS.—Permanent resident status
15 on a conditional basis is—

16 (1) valid for a period of 10 years, unless such
17 period is extended by the Secretary; and

18 (2) subject to revocation under subsection (c).

19 (b) NOTICE OF REQUIREMENTS.—At the time an
20 alien obtains permanent resident status on a conditional
21 basis, the Secretary shall provide notice to the alien re-
22 garding the provisions of this title and the requirements
23 to have the conditional basis of such status removed.

1 (c) REVOCATION OF STATUS.—The Secretary may
2 revoke the permanent resident status on a conditional
3 basis of an alien only if the Secretary—

4 (1) determines that the alien ceases to meet the
5 requirements under section 1102(b)(1)(C); and

6 (2) prior to the revocation, provides the alien—

7 (A) notice of the proposed revocation; and

8 (B) the opportunity for a hearing to pro-
9 vide evidence that the alien meets such require-
10 ments or otherwise to contest the proposed rev-
11 ocation.

12 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—

13 An alien whose permanent resident status on a conditional
14 basis expires under subsection (a)(1) or is revoked under
15 subsection (c), shall return to the immigration status that
16 the alien had immediately before receiving permanent resi-
17 dent status on a conditional basis.

18 **SEC. 1104. REMOVAL OF CONDITIONAL BASIS OF PERMA-**
19 **NENT RESIDENT STATUS.**

20 (a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL
21 BASIS.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the Secretary shall remove the conditional basis of
24 an alien's permanent resident status granted under

1 this title and grant the alien status as an alien law-
2 fully admitted for permanent residence if the alien—

3 (A) is described in section 1102(b)(1)(C);

4 (B) has not abandoned the alien's resi-
5 dence in the United States during the period in
6 which the alien has permanent resident status
7 on a conditional basis; and

8 (C)(i) has obtained a degree from an insti-
9 tution of higher education or a recognized post-
10 secondary credential from an area career and
11 technical education school providing education
12 at the postsecondary level;

13 (ii) has served in the Uniformed Services
14 for at least 3 years and, if discharged, received
15 an honorable discharge; or

16 (iii) demonstrates earned income for peri-
17 ods totaling at least 4 years and at least 75
18 percent of the time that the alien has had a
19 valid employment authorization.

20 (2) **HARDSHIP EXCEPTION.**—The Secretary
21 shall remove the conditional basis of an alien's per-
22 manent resident status and grant the alien status as
23 an alien lawfully admitted for permanent residence
24 if the alien—

1 (A) satisfies the requirements under sub-
2 paragraphs (A) and (B) of paragraph (1);

3 (B) demonstrates compelling circumstances
4 for the inability to satisfy the requirements
5 under subparagraph (C) of such paragraph; and

6 (C) demonstrates that—

7 (i) the alien has a disability;

8 (ii) the alien is a full-time caregiver;

9 or

10 (iii) the removal of the alien from the
11 United States would result in hardship to
12 the alien or the alien's spouse, parent, or
13 child who is a national of the United
14 States or is lawfully admitted for perma-
15 nent residence.

16 (3) CITIZENSHIP REQUIREMENT.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraph (B), the conditional basis of an
19 alien's permanent resident status granted under
20 this title may not be removed unless the alien
21 demonstrates that the alien satisfies the re-
22 quirements under section 3112(a) of the Immi-
23 gration and Nationality Act (8 U.S.C. 1423(a)).

24 (B) EXCEPTION.—Subparagraph (A) shall
25 not apply to an alien who is unable to meet the

1 requirements under such section 3112(a) due to
2 disability.

3 (4) APPLICATION FEE.—The Secretary may,
4 subject to an exemption under section 3103(c), re-
5 quire aliens applying for removal of the conditional
6 basis of an alien's permanent resident status under
7 this section to pay a reasonable fee that is commensurate with the cost of processing the application.

9 (5) BACKGROUND CHECKS.—The Secretary
10 may not remove the conditional basis of an alien's
11 permanent resident status until the requirements of
12 section 3102 are satisfied.

13 (b) TREATMENT FOR PURPOSES OF NATURALIZA-
14 TION.—

15 (1) IN GENERAL.—For purposes of title III of
16 the Immigration and Nationality Act (8 U.S.C. 1401
17 et seq.), an alien granted permanent resident status
18 on a conditional basis shall be considered to have
19 been admitted to the United States, and be present
20 in the United States, as an alien lawfully admitted
21 for permanent residence.

22 (2) LIMITATION ON APPLICATION FOR NATU-
23 RALIZATION.—An alien may not apply for natu-
24 ralization while the alien is in permanent resident
25 status on a conditional basis.

1 (c) TIMING OF APPROVAL OF LAWFUL PERMANENT
2 RESIDENT STATUS.—

3 (1) IN GENERAL.—An alien granted permanent
4 resident status on a conditional basis under this title
5 may apply to have such conditional basis removed at
6 any time after such alien has met the eligibility re-
7 quirements set forth in subsection (a).

8 (2) APPROVAL WITH REGARD TO INITIAL APPLI-
9 CATIONS.—

10 (A) IN GENERAL.—Notwithstanding any
11 other provision of law, the Secretary or the At-
12 torney General shall adjust to the status of an
13 alien lawfully admitted for permanent resident
14 status without conditional basis, any alien
15 who—

16 (i) demonstrates eligibility for lawful
17 permanent residence status on a condi-
18 tional basis under section 1102(b); and

19 (ii) subject to the exceptions described
20 in subsections (a)(2) and (a)(3)(B) of this
21 section, already has fulfilled the require-
22 ments of paragraphs (1) and (3) of sub-
23 section (a) of this section at the time such
24 alien first submits an application for bene-
25 fits under this title.

1 (B) BACKGROUND CHECKS.—Subsection
2 (a)(5) shall apply to an alien seeking lawful
3 permanent resident status without conditional
4 basis in an initial application in the same man-
5 ner as it applies to an alien seeking removal of
6 the conditional basis of an alien’s permanent
7 resident status. Section 1102(b)(4) shall not be
8 construed to require the Secretary to conduct
9 more than one identical security or law enforce-
10 ment background check on such an alien.

11 (C) APPLICATION FEES.—In the case of an
12 alien seeking lawful permanent resident status
13 without conditional basis in an initial applica-
14 tion, the alien shall pay the fee required under
15 subsection (a)(4), subject to the exemption al-
16 lowed under section 3103(c), but shall not be
17 required to pay the application fee under sec-
18 tion 1102(b)(3).

19 **SEC. 1105. RESTORATION OF STATE OPTION TO DETER-**
20 **MINE RESIDENCY FOR PURPOSES OF HIGHER**
21 **EDUCATION BENEFITS.**

22 (a) IN GENERAL.—Section 505 of the Illegal Immi-
23 gration Reform and Immigrant Responsibility Act of 1996
24 (8 U.S.C. 1623) is repealed.

1 (b) EFFECTIVE DATE.—The repeal under subsection
2 (a) shall take effect as if included in the original enact-
3 ment of the Illegal Immigration Reform and Immigrant
4 Responsibility Act of 1996 (division C of Public Law 104–
5 208; 110 Stat. 3009–546).

6 **TITLE II—AMERICAN PROMISE**
7 **ACT**

8 **SEC. 2101. SHORT TITLE.**

9 This title may be cited as the “American Promise
10 Act”.

11 **SEC. 2102. ADJUSTMENT OF STATUS FOR CERTAIN NATION-**
12 **ALS OF CERTAIN COUNTRIES DESIGNATED**
13 **FOR TEMPORARY PROTECTED STATUS OR**
14 **DEFERRED ENFORCED DEPARTURE.**

15 (a) IN GENERAL.—Notwithstanding any other provi-
16 sion of law, the Secretary or the Attorney General shall
17 adjust to the status of an alien lawfully admitted for per-
18 manent residence, an alien described in subsection (b) if
19 the alien—

20 (1) applies for such adjustment, including sub-
21 mitting any required documents under section 3107,
22 not later than 5 years after the date of the enact-
23 ment of this Act;

1 (2) has been continuously physically present in
2 the United States for a period of not less than 5
3 years; and

4 (3) subject to subsection (c), is not inadmissible
5 under paragraph (1), (2), (3), (6)(D), (6)(E),
6 (6)(F), (6)(G), (8), or (10) of section 212(a) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1182(a)).

9 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
10 TUS.—An alien shall be eligible for adjustment of status
11 under this section if the alien is an individual—

12 (1) who—

13 (A) is a national of a foreign state (or part
14 thereof) (or in the case of an alien having no
15 nationality, is a person who last habitually re-
16 sided in such state) with a designation under
17 subsection (b) of section 244 of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1254a(b))
19 on July 4, 2017, who had or was otherwise eli-
20 gible for temporary protected status on such
21 date notwithstanding subsections (c)(1)(A)(iv)
22 and (c)(3)(C) of such section; and

23 (B) has not engaged in conduct since such
24 date that would render the alien ineligible for
25 temporary protected status under section

1 244(c)(2) of the Immigration and Nationality
2 Act (8 U.S.C. 1245a(c)(2)); or

3 (2) who was eligible for Deferred Enforced De-
4 parture as of January 20, 2021 and has not en-
5 gaged in conduct since that date that would render
6 the alien ineligible for Deferred Enforced Departure.

7 (c) WAIVER OF GROUNDS OF INADMISSIBILITY.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), with respect to any benefit under this
10 title, and in addition to any waivers that are other-
11 wise available, the Secretary may waive the grounds
12 of inadmissibility under paragraph (1), subpara-
13 graphs (A), (C), and (D) of paragraph (2), subpara-
14 graphs (D) through (G) of paragraph (6), or para-
15 graph (10)(D) of section 212(a) of the Immigration
16 and Nationality Act (8 U.S.C. 1182(a)) for humani-
17 tarian purposes, for family unity, or because the
18 waiver is otherwise in the public interest.

19 (2) EXCEPTION.—The Secretary may not waive
20 a ground described in paragraph (1) if such inad-
21 missibility is based on a conviction or convictions,
22 and such conviction or convictions would otherwise
23 render the alien ineligible under section
24 244(c)(2)(B) of the Immigration and Nationality
25 Act (8 U.S.C. 1254a(c)(2)(B)).

1 (d) APPLICATION.—

2 (1) FEE.—The Secretary shall, subject to an
3 exemption under section 3103(c), require an alien
4 applying for adjustment of status under this section
5 to pay a reasonable fee that is commensurate with
6 the cost of processing the application, but does not
7 exceed \$1,140.

8 (2) BACKGROUND CHECKS.—The Secretary
9 may not grant an alien permanent resident status on
10 a conditional basis under this section until the re-
11 quirements of section 3102 are satisfied.

12 (3) WITHDRAWAL OF APPLICATION.—The Sec-
13 retary of Homeland Security shall, upon receipt of
14 a request to withdraw an application for adjustment
15 of status under this section, cease processing of the
16 application and close the case. Withdrawal of the ap-
17 plication under this subsection shall not prejudice
18 any future application filed by the applicant for any
19 immigration benefit under this title or under the Im-
20 migration and Nationality Act (8 U.S.C. 1101 et
21 seq.).

22 **SEC. 2103. CLARIFICATION.**

23 Section 244(f)(4) of the Immigration and Nationality
24 Act (8 U.S.C. 1254a(f)(4)) is amended by inserting after

1 “considered” the following: “as having been inspected and
2 admitted into the United States, and”.

3 **TITLE III—GENERAL**
4 **PROVISIONS**

5 **SEC. 3101. DEFINITIONS.**

6 (a) IN GENERAL.—In this division:

7 (1) IN GENERAL.—Except as otherwise specifi-
8 cally provided, any term used in this division that is
9 used in the immigration laws shall have the meaning
10 given such term in the immigration laws.

11 (2) APPROPRIATE UNITED STATES DISTRICT
12 COURT.—The term “appropriate United States dis-
13 trict court” means the United States District Court
14 for the District of Columbia or the United States
15 district court with jurisdiction over the alien’s prin-
16 cipal place of residence.

17 (3) AREA CAREER AND TECHNICAL EDUCATION
18 SCHOOL.—The term “area career and technical edu-
19 cation school” has the meaning given such term in
20 section 3 of the Carl D. Perkins Career and Tech-
21 nical Education Act of 2006 (20 U.S.C. 2302).

22 (4) DACA.—The term “DACA” means de-
23 ferred action granted to an alien pursuant to the
24 Deferred Action for Childhood Arrivals policy an-

1 nounced by the Secretary of Homeland Security on
2 June 15, 2012.

3 (5) DISABILITY.—The term “disability” has the
4 meaning given such term in section 3(1) of the
5 Americans with Disabilities Act of 1990 (42 U.S.C.
6 12102(1)).

7 (6) FEDERAL POVERTY LINE.—The term “Fed-
8 eral poverty line” has the meaning given such term
9 in section 213A(h) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1183a).

11 (7) HIGH SCHOOL; SECONDARY SCHOOL.—The
12 terms “high school” and “secondary school” have
13 the meanings given such terms in section 8101 of
14 the Elementary and Secondary Education Act of
15 1965 (20 U.S.C. 7801).

16 (8) IMMIGRATION LAWS.—The term “immigra-
17 tion laws” has the meaning given such term in sec-
18 tion 101(a)(17) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(a)(17)).

20 (9) INSTITUTION OF HIGHER EDUCATION.—The
21 term “institution of higher education”—

22 (A) except as provided in subparagraph
23 (B), has the meaning given such term in section
24 102 of the Higher Education Act of 1965 (20
25 U.S.C. 1002); and

1 (B) does not include an institution of high-
2 er education outside of the United States.

3 (10) **RECOGNIZED POSTSECONDARY CREDEN-**
4 **TIAL.**—The term “recognized postsecondary creden-

5 tial” has the meaning given such term in section 3
6 of the Workforce Innovation and Opportunity Act
7 (29 U.S.C. 3102).

8 (11) **SECRETARY.**—Except as otherwise specifi-
9 cally provided, the term “Secretary” means the Sec-
10 retary of Homeland Security.

11 (12) **UNIFORMED SERVICES.**—The term “Uni-
12 formed Services” has the meaning given the term
13 “uniformed services” in section 101(a) of title 10,
14 United States Code.

15 (b) **TREATMENT OF EXPUNGED CONVICTIONS.**—For
16 purposes of adjustment of status under this division, the
17 terms “convicted” and “conviction”, as used in this divi-
18 sion and in sections 212 and 244 of the Immigration and
19 Nationality Act (8 U.S.C. 1182, 1254a), do not include
20 a judgment that has been expunged or set aside, that re-
21 sulted in a rehabilitative disposition, or the equivalent.

22 **SEC. 3102. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC**
23 **DATA; BACKGROUND CHECKS.**

24 (a) **SUBMISSION OF BIOMETRIC AND BIOGRAPHIC**
25 **DATA.**—The Secretary may not grant an alien adjustment

1 of status under this division, on either a conditional or
2 permanent basis, unless the alien submits biometric and
3 biographic data, in accordance with procedures established
4 by the Secretary. The Secretary shall provide an alter-
5 native procedure for aliens who are unable to provide such
6 biometric or biographic data because of a physical impair-
7 ment.

8 (b) **BACKGROUND CHECKS.**—The Secretary shall use
9 biometric, biographic, and other data that the Secretary
10 determines appropriate to conduct security and law en-
11 forcement background checks and to determine whether
12 there is any criminal, national security, or other factor
13 that would render the alien ineligible for adjustment of
14 status under this division, on either a conditional or per-
15 manent basis. The status of an alien may not be adjusted,
16 on either a conditional or permanent basis, unless security
17 and law enforcement background checks are completed to
18 the satisfaction of the Secretary.

19 **SEC. 3103. LIMITATION ON REMOVAL; APPLICATION AND**
20 **FEE EXEMPTION; AND OTHER CONDITIONS**
21 **ON ELIGIBLE INDIVIDUALS.**

22 (a) **LIMITATION ON REMOVAL.**—An alien who ap-
23 pears to be prima facie eligible for relief under this divi-
24 sion shall be given a reasonable opportunity to apply for
25 such relief and may not be removed until, subject to sec-

1 tion 3106(c)(2), a final decision establishing ineligibility
2 for relief is rendered.

3 (b) APPLICATION.—An alien present in the United
4 States who has been ordered removed or has been per-
5 mitted to depart voluntarily from the United States may,
6 notwithstanding such order or permission to depart, apply
7 for adjustment of status under this division. Such alien
8 shall not be required to file a separate motion to reopen,
9 reconsider, or vacate the order of removal. If the Secretary
10 approves the application, the Secretary shall cancel the
11 order of removal. If the Secretary renders a final adminis-
12 trative decision to deny the application, the order of re-
13 moval or permission to depart shall be effective and en-
14 forceable to the same extent as if the application had not
15 been made, only after all available administrative and judi-
16 cial remedies have been exhausted.

17 (c) FEE EXEMPTION.—An applicant may be exempt-
18 ed from paying an application fee required under this divi-
19 sion if the applicant—

20 (1) is 18 years of age or younger;

21 (2) received total income, during the 12-month
22 period immediately preceding the date on which the
23 applicant files an application under this division,
24 that is less than 150 percent of the Federal poverty
25 line;

1 (3) is in foster care or otherwise lacks any pa-
2 rental or other familial support; or

3 (4) cannot care for himself or herself because of
4 a serious, chronic disability.

5 (d) **ADVANCE PAROLE.**—During the period beginning
6 on the date on which an alien applies for adjustment of
7 status under this division and ending on the date on which
8 the Secretary makes a final decision regarding such appli-
9 cation, the alien shall be eligible to apply for advance pa-
10 role. Section 101(g) of the Immigration and Nationality
11 Act (8 U.S.C. 1101(g)) shall not apply to an alien granted
12 advance parole under this Act.

13 (e) **EMPLOYMENT.**—An alien whose removal is stayed
14 pursuant to this division, who may not be placed in re-
15 moval proceedings pursuant to this division, or who has
16 pending an application under this division, shall, upon ap-
17 plication to the Secretary, be granted an employment au-
18 thorization document.

19 **SEC. 3104. DETERMINATION OF CONTINUOUS PRESENCE**
20 **AND RESIDENCE.**

21 (a) **EFFECT OF NOTICE TO APPEAR.**—Any period of
22 continuous physical presence or continuous residence in
23 the United States of an alien who applies for permanent
24 resident status under this division (whether on a condi-
25 tional basis or without the conditional basis as provided

1 in section 1104(c)(2)) shall not terminate when the alien
2 is served a notice to appear under section 239(a) of the
3 Immigration and Nationality Act (8 U.S.C. 1229(a)).

4 (b) TREATMENT OF CERTAIN BREAKS IN PRESENCE
5 OR RESIDENCE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graphs (2) and (3), an alien shall be considered to
8 have failed to maintain—

9 (A) continuous physical presence in the
10 United States under this division if the alien
11 has departed from the United States for any
12 period exceeding 90 days or for any periods, in
13 the aggregate, exceeding 180 days; and

14 (B) continuous residence in the United
15 States under this division if the alien has de-
16 parted from the United States for any period
17 exceeding 180 days, unless the alien establishes
18 to the satisfaction of the Secretary of Home-
19 land Security that the alien did not in fact
20 abandon residence in the United States during
21 such period.

22 (2) EXTENSIONS FOR EXTENUATING CIR-
23 CUMSTANCES.—The Secretary may extend the time
24 periods described in paragraph (1) for an alien who
25 demonstrates that the failure to timely return to the

1 United States was due to extenuating circumstances
2 beyond the alien's control, including—

3 (A) the serious illness of the alien;

4 (B) death or serious illness of a parent,
5 grandparent, sibling, or child of the alien;

6 (C) processing delays associated with the
7 application process for a visa or other travel
8 document; or

9 (D) restrictions on international travel due
10 to the public health emergency declared by the
11 Secretary of Health and Human Services under
12 section 3119 of the Public Health Service Act
13 (42 U.S.C. 247d) with respect to COVID–19.

14 (3) TRAVEL AUTHORIZED BY THE SEC-
15 RETARY.—Any period of travel outside of the United
16 States by an alien that was authorized by the Sec-
17 retary may not be counted toward any period of de-
18 parture from the United States under paragraph
19 (1).

20 (c) WAIVER OF PHYSICAL PRESENCE.—With respect
21 to aliens who were removed or departed the United States
22 on or after January 20, 2017, and who were continuously
23 physically present in the United States for at least 5 years
24 prior to such removal or departure, the Secretary may,
25 as a matter of discretion, waive the physical presence re-

1 quirement under section 1102(b)(1)(A) or section
2 2102(a)(2) for humanitarian purposes, for family unity,
3 or because a waiver is otherwise in the public interest. The
4 Secretary, in consultation with the Secretary of State,
5 shall establish a procedure for such aliens to apply for re-
6 lief under section 1102 or 202 from outside the United
7 States if they would have been eligible for relief under
8 such section, but for their removal or departure.

9 **SEC. 3105. EXEMPTION FROM NUMERICAL LIMITATIONS.**

10 Nothing in this division or in any other law may be
11 construed to apply a numerical limitation on the number
12 of aliens who may be granted permanent resident status
13 under this division (whether on a conditional basis, or
14 without the conditional basis as provided in section
15 1104(c)(2)).

16 **SEC. 3106. AVAILABILITY OF ADMINISTRATIVE AND JUDI-**
17 **CIAL REVIEW.**

18 (a) ADMINISTRATIVE REVIEW.—Not later than 30
19 days after the date of the enactment of this Act, the Sec-
20 retary shall provide to aliens who have applied for adjust-
21 ment of status under this division a process by which an
22 applicant may seek administrative appellate review of a
23 denial of an application for adjustment of status, or a rev-
24 ocation of such status.

1 (b) JUDICIAL REVIEW.—Except as provided in sub-
2 section (c), and notwithstanding any other provision of
3 law, an alien may seek judicial review of a denial of an
4 application for adjustment of status, or a revocation of
5 such status, under this division in an appropriate United
6 States district court.

7 (c) STAY OF REMOVAL.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), an alien seeking administrative or judicial
10 review under this division may not be removed from
11 the United States until a final decision is rendered
12 establishing that the alien is ineligible for adjust-
13 ment of status under this Act.

14 (2) EXCEPTION.—The Secretary may remove
15 an alien described in paragraph (1) pending judicial
16 review if such removal is based on criminal or na-
17 tional security grounds described in this division.
18 Such removal shall not affect the alien's right to ju-
19 dicial review under this division. The Secretary shall
20 promptly return a removed alien if a decision to
21 deny an application for adjustment of status under
22 this division, or to revoke such status, is reversed.

23 **SEC. 3107. DOCUMENTATION REQUIREMENTS.**

24 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
25 alien's application for permanent resident status under

1 this division (whether on a conditional basis, or without
2 the conditional basis as provided in section 1104(c)(2))
3 may include, as evidence of identity, the following:

4 (1) A passport or national identity document
5 from the alien's country of origin that includes the
6 alien's name and the alien's photograph or finger-
7 print.

8 (2) The alien's birth certificate and an identity
9 card that includes the alien's name and photograph.

10 (3) A school identification card that includes
11 the alien's name and photograph, and school records
12 showing the alien's name and that the alien is or
13 was enrolled at the school.

14 (4) A Uniformed Services identification card
15 issued by the Department of Defense.

16 (5) Any immigration or other document issued
17 by the United States Government bearing the alien's
18 name and photograph.

19 (6) A State-issued identification card bearing
20 the alien's name and photograph.

21 (7) Any other evidence determined to be cred-
22 ible by the Secretary.

23 (b) DOCUMENTS ESTABLISHING ENTRY, CONTIN-
24 UOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF
25 RESIDENCE.—To establish that an alien was 18 years of

1 age or younger on the date on which the alien entered
2 the United States, and has continuously resided in the
3 United States since such entry, as required under section
4 1102(b)(1)(B), that an alien has been continuously phys-
5 ically present in the United States, as required under sec-
6 tion 1102(b)(1)(A) or 202(a)(2), or that an alien has not
7 abandoned residence in the United States, as required
8 under section 1104(a)(1)(B), the alien may submit the fol-
9 lowing forms of evidence:

10 (1) Passport entries, including admission
11 stamps on the alien's passport.

12 (2) Any document from the Department of Jus-
13 tice or the Department of Homeland Security noting
14 the alien's date of entry into the United States.

15 (3) Records from any educational institution
16 the alien has attended in the United States.

17 (4) Employment records of the alien that in-
18 clude the employer's name and contact information,
19 or other records demonstrating earned income.

20 (5) Records of service from the Uniformed
21 Services.

22 (6) Official records from a religious entity con-
23 firming the alien's participation in a religious cere-
24 mony.

1 (7) A birth certificate for a child who was born
2 in the United States.

3 (8) Hospital or medical records showing med-
4 ical treatment or hospitalization, the name of the
5 medical facility or physician, and the date of the
6 treatment or hospitalization.

7 (9) Automobile license receipts or registration.

8 (10) Deeds, mortgages, or rental agreement
9 contracts.

10 (11) Rent receipts or utility bills bearing the
11 alien's name or the name of an immediate family
12 member of the alien, and the alien's address.

13 (12) Tax receipts.

14 (13) Insurance policies.

15 (14) Remittance records, including copies of
16 money order receipts sent in or out of the country.

17 (15) Travel records.

18 (16) Dated bank transactions.

19 (17) Two or more sworn affidavits from individ-
20 uals who are not related to the alien who have direct
21 knowledge of the alien's continuous physical pres-
22 ence in the United States, that contain—

23 (A) the name, address, and telephone num-
24 ber of the affiant; and

1 (B) the nature and duration of the rela-
2 tionship between the affiant and the alien.

3 (18) Any other evidence determined to be cred-
4 ible by the Secretary.

5 (c) DOCUMENTS ESTABLISHING ADMISSION TO AN
6 INSTITUTION OF HIGHER EDUCATION.—To establish that
7 an alien has been admitted to an institution of higher edu-
8 cation, the alien may submit to the Secretary a document
9 from the institution of higher education certifying that the
10 alien—

11 (1) has been admitted to the institution; or

12 (2) is currently enrolled in the institution as a
13 student.

14 (d) DOCUMENTS ESTABLISHING RECEIPT OF A DE-
15 GREE FROM AN INSTITUTION OF HIGHER EDUCATION.—
16 To establish that an alien has acquired a degree from an
17 institution of higher education in the United States, the
18 alien may submit to the Secretary a diploma or other doc-
19 ument from the institution stating that the alien has re-
20 ceived such a degree.

21 (e) DOCUMENTS ESTABLISHING RECEIPT OF A HIGH
22 SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOP-
23 MENT CREDENTIAL, OR A RECOGNIZED EQUIVALENT.—
24 To establish that in the United States an alien has earned
25 a high school diploma or a commensurate alternative

1 award from a public or private high school, has obtained
2 the General Education Development credential, or other-
3 wise has satisfied section 1102(b)(1)(D)(iii), the alien may
4 submit to the Secretary the following:

5 (1) A high school diploma, certificate of comple-
6 tion, or other alternate award.

7 (2) A high school equivalency diploma or certifi-
8 cate recognized under State law.

9 (3) Evidence that the alien passed a State-au-
10 thorized exam, including the General Education De-
11 velopment test, in the United States.

12 (4) Evidence that the alien successfully com-
13 pleted an area career and technical education pro-
14 gram, such as a certification, certificate, or similar
15 alternate award.

16 (5) Evidence that the alien obtained a recog-
17 nized postsecondary credential.

18 (6) Any other evidence determined to be cred-
19 ible by the Secretary.

20 (f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN
21 EDUCATIONAL PROGRAM.—To establish that an alien is
22 enrolled in any school or education program described in
23 section 1102(b)(1)(D)(iv) or 104(a)(1)(C), the alien may
24 submit school records from the United States school that
25 the alien is currently attending that include—

1 (1) the name of the school; and

2 (2) the alien's name, periods of attendance, and
3 current grade or educational level.

4 (g) DOCUMENTS ESTABLISHING EXEMPTION FROM
5 APPLICATION FEES.—To establish that an alien is exempt
6 from an application fee under this division, the alien may
7 submit to the Secretary the following relevant documents:

8 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
9 tablish that an alien meets an age requirement, the
10 alien may provide proof of identity, as described in
11 subsection (a), that establishes that the alien is 18
12 years of age or younger.

13 (2) DOCUMENTS TO ESTABLISH INCOME.—To
14 establish the alien's income, the alien may provide—

15 (A) employment records or other records of
16 earned income, including records that have been
17 maintained by the Social Security Administra-
18 tion, the Internal Revenue Service, or any other
19 Federal, State, or local government agency;

20 (B) bank records; or

21 (C) at least two sworn affidavits from indi-
22 viduals who are not related to the alien and
23 who have direct knowledge of the alien's work
24 and income that contain—

1 (i) the name, address, and telephone
2 number of the affiant; and

3 (ii) the nature and duration of the re-
4 lationship between the affiant and the
5 alien.

6 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
7 LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
8 DISABILITY.—To establish that the alien is in foster
9 care, lacks parental or familial support, or has a se-
10 rious, chronic disability, the alien may provide at
11 least two sworn affidavits from individuals who are
12 not related to the alien and who have direct knowl-
13 edge of the circumstances that contain—

14 (A) a statement that the alien is in foster
15 care, otherwise lacks any parental or other fa-
16 miliar support, or has a serious, chronic dis-
17 ability, as appropriate;

18 (B) the name, address, and telephone num-
19 ber of the affiant; and

20 (C) the nature and duration of the rela-
21 tionship between the affiant and the alien.

22 (h) DOCUMENTS ESTABLISHING QUALIFICATION FOR
23 HARDSHIP EXEMPTION.—To establish that an alien satis-
24 fies one of the criteria for the hardship exemption set forth
25 in section 1104(a)(2)(C), the alien may submit to the Sec-

1 retary at least two sworn affidavits from individuals who
2 are not related to the alien and who have direct knowledge
3 of the circumstances that warrant the exemption, that
4 contain—

5 (1) the name, address, and telephone number of
6 the affiant; and

7 (2) the nature and duration of the relationship
8 between the affiant and the alien.

9 (i) DOCUMENTS ESTABLISHING SERVICE IN THE
10 UNIFORMED SERVICES.—To establish that an alien has
11 served in the Uniformed Services for at least 2 years and,
12 if discharged, received an honorable discharge, the alien
13 may submit to the Secretary—

14 (1) a Department of Defense form DD-214;

15 (2) a National Guard Report of Separation and
16 Record of Service form 22;

17 (3) personnel records for such service from the
18 appropriate Uniformed Service; or

19 (4) health records from the appropriate Uni-
20 formed Service.

21 (j) DOCUMENTS ESTABLISHING EARNED INCOME.—

22 (1) IN GENERAL.—An alien may satisfy the
23 earned income requirement under section
24 1104(a)(1)(C)(iii) by submitting records that—

1 (A) establish compliance with such require-
2 ment; and

3 (B) have been maintained by the Social Se-
4 curity Administration, the Internal Revenue
5 Service, or any other Federal, State, or local
6 government agency.

7 (2) OTHER DOCUMENTS.—An alien who is un-
8 able to submit the records described in paragraph
9 (1) may satisfy the earned income requirement by
10 submitting at least two types of reliable documents
11 that provide evidence of employment or other forms
12 of earned income, including—

13 (A) bank records;

14 (B) business records;

15 (C) employer or contractor records;

16 (D) records of a labor union, day labor
17 center, or organization that assists workers in
18 employment;

19 (E) sworn affidavits from individuals who
20 are not related to the alien and who have direct
21 knowledge of the alien's work, that contain—

22 (i) the name, address, and telephone
23 number of the affiant; and

1 (ii) the nature and duration of the re-
2 lationship between the affiant and the
3 alien;

4 (F) remittance records; or

5 (G) any other evidence determined to be
6 credible by the Secretary.

7 (k) **AUTHORITY TO PROHIBIT USE OF CERTAIN DOC-**
8 **UMENTS.**—If the Secretary determines, after publication
9 in the Federal Register and an opportunity for public com-
10 ment, that any document or class of documents does not
11 reliably establish identity or that permanent resident sta-
12 tus under this division (whether on a conditional basis,
13 or without the conditional basis as provided in section
14 1104(c)(2)) is being obtained fraudulently to an unaccept-
15 able degree, the Secretary may prohibit or restrict the use
16 of such document or class of documents.

17 **SEC. 3108. RULE MAKING.**

18 (a) **IN GENERAL.**—Not later than 90 days after the
19 date of the enactment of this Act, the Secretary shall pub-
20 lish in the Federal Register interim final rules imple-
21 menting this division, which shall allow eligible individuals
22 to immediately apply for relief under this division. Not-
23 withstanding section 553 of title 5, United States Code,
24 the regulation shall be effective, on an interim basis, im-
25 mediately upon publication, but may be subject to change

1 and revision after public notice and opportunity for a pe-
2 riod of public comment. The Secretary shall finalize such
3 rules not later than 180 days after the date of publication.

4 (b) PAPERWORK REDUCTION ACT.—The require-
5 ments under chapter 35 of title 44, United States Code,
6 (commonly known as the “Paperwork Reduction Act”)
7 shall not apply to any action to implement this Act.

8 **SEC. 3109. CONFIDENTIALITY OF INFORMATION.**

9 (a) IN GENERAL.—The Secretary may not disclose
10 or use information (including information provided during
11 administrative or judicial review) provided in applications
12 filed under this division or in requests for DACA for the
13 purpose of immigration enforcement.

14 (b) REFERRALS PROHIBITED.—The Secretary, based
15 solely on information provided in an application for adjust-
16 ment of status under this division (including information
17 provided during administrative or judicial review) or an
18 application for DACA, may not refer an applicant to U.S.
19 Immigration and Customs Enforcement, U.S. Customs
20 and Border Protection, or any designee of either such enti-
21 ty.

22 (c) LIMITED EXCEPTION.—Notwithstanding sub-
23 sections (a) and (b), information provided in an applica-
24 tion for adjustment of status under this division may be

1 shared with Federal security and law enforcement agen-
2 cies—

3 (1) for assistance in the consideration of an ap-
4 plication for adjustment of status under this divi-
5 sion;

6 (2) to identify or prevent fraudulent claims;

7 (3) for national security purposes; or

8 (4) for the investigation or prosecution of any
9 felony offense not related to immigration status.

10 (d) PENALTY.—Any person who knowingly uses, pub-
11 lishes, or permits information to be examined in violation
12 of this section shall be fined not more than \$10,000.

13 **SEC. 3110. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
14 **CANTS.**

15 (a) ESTABLISHMENT.—The Secretary shall establish,
16 within U.S. Citizenship and Immigration Services, a pro-
17 gram to award grants, on a competitive basis, to eligible
18 nonprofit organizations that will use the funding to assist
19 eligible applicants under this division by providing them
20 with the services described in subsection (b).

21 (b) USE OF FUNDS.—Grant funds awarded under
22 this section shall be used for the design and implementa-
23 tion of programs that provide—

24 (1) information to the public regarding the eli-
25 gibility and benefits of permanent resident status

1 under this division (whether on a conditional basis,
2 or without the conditional basis as provided in sec-
3 tion 1104(c)(2)), particularly to individuals poten-
4 tially eligible for such status;

5 (2) assistance, within the scope of authorized
6 practice of immigration law, to individuals submit-
7 ting applications for adjustment of status under this
8 division (whether on a conditional basis, or without
9 the conditional basis as provided in section
10 1104(c)(2)), including—

11 (A) screening prospective applicants to as-
12 sess their eligibility for such status;

13 (B) completing applications and petitions,
14 including providing assistance in obtaining the
15 requisite documents and supporting evidence;
16 and

17 (C) providing any other assistance that the
18 Secretary or grantee considers useful or nec-
19 essary to apply for adjustment of status under
20 this division (whether on a conditional basis, or
21 without the conditional basis as provided in sec-
22 tion 1104(c)(2)); and

23 (3) assistance, within the scope of authorized
24 practice of immigration law, and instruction, to indi-
25 viduals—

1 (A) on the rights and responsibilities of
2 United States citizenship;

3 (B) in civics and English as a second lan-
4 guage;

5 (C) in preparation for the General Edu-
6 cation Development test; and

7 (D) in applying for adjustment of status
8 and United States citizenship.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) AMOUNTS AUTHORIZED.—There are author-
11 ized to be appropriated such sums as may be nec-
12 essary for each of the fiscal years 2022 through
13 2032 to carry out this section.

14 (2) AVAILABILITY.—Any amounts appropriated
15 pursuant to paragraph (1) shall remain available
16 until expended.

17 **SEC. 3111. PROVISIONS AFFECTING ELIGIBILITY FOR AD-**
18 **JUSTMENT OF STATUS.**

19 An alien's eligibility to be lawfully admitted for per-
20 manent residence under this division (whether on a condi-
21 tional basis, or without the conditional basis as provided
22 in section 1104(c)(2)) shall not preclude the alien from
23 seeking any status under any other provision of law for
24 which the alien may otherwise be eligible.

1 **SEC. 3112. SUPPLEMENTARY SURCHARGE FOR APPOINTED**
2 **COUNSEL.**

3 (a) IN GENERAL.—Except as provided in section
4 3102 and in cases where the applicant is exempt from pay-
5 ing a fee under section 3103(c), in any case in which a
6 fee is charged pursuant to this division, an additional sur-
7 charge of \$25 shall be imposed and collected for the pur-
8 pose of providing appointed counsel to applicants seeking
9 judicial review of the Secretary’s decision to provisionally
10 deny an application under this Act.

11 (b) IMMIGRATION COUNSEL ACCOUNT.—There is es-
12 tablished in the general fund of the Treasury a separate
13 account which shall be known as the “Immigration Coun-
14 sel Account”. Fees collected under subsection (a) shall be
15 deposited into the Immigration Counsel Account and shall
16 remain available until expended for purposes of providing
17 appointed counsel as required under this Act.

18 (c) REPORT.—At the end of each 2-year period, be-
19 ginning with the establishment of this account, the Sec-
20 retary of Homeland Security shall submit a report to the
21 Congress concerning the status of the account, including
22 any balances therein, and recommend any adjustment in
23 the prescribed fee that may be required to ensure that the
24 receipts collected from the fee charged for the succeeding
25 two years equal, as closely as possible, the cost of pro-
26 viding appointed counsel as required under this Act.

1 **SEC. 3113. ANNUAL REPORT ON PROVISIONAL DENIAL AU-**
2 **THORITY.**

3 Not later than 1 year after the date of the enactment
4 of this Act, and annually thereafter, the Secretary of
5 Homeland Security shall submit to the Congress a report
6 detailing the number of applicants that receive—

7 (1) a provisional denial under this division;

8 (2) a final denial under this division without
9 seeking judicial review;

10 (3) a final denial under this division after seek-
11 ing judicial review; and

12 (4) an approval under this division after seek-
13 ing judicial review.

14 **TITLE IV—DIGNITY AND**
15 **REDEMPTION PROGRAMS**
16 **Subtitle A—Dignity Program**

17 **SEC. 4001. ESTABLISHMENT.**

18 (a) **IN GENERAL.**—There is established a program,
19 to be known as the “Dignity Program” under this subtitle,
20 which shall provide for deferred action on removal and the
21 provision of employment authorization in the case of eligi-
22 ble applicants, in accordance with the provisions of this
23 subtitle.

24 (b) **ABOLITION OF 3 AND 10 YEAR BARS.**—For pur-
25 poses of this subtitle, section 212(a)(9) of the Immigration
26 and Nationality Act shall not apply for purposes of any

1 person who applies and thereafter participates in the Dignity Program.
2 nity Program.

3 **SEC. 4002. ELIGIBILITY.**

4 The Secretary of Homeland Security shall approve an
5 application to participate in the Dignity Program from an
6 eligible alien subject to the following:

7 (1) APPLICATION.—The applicant shall submit
8 such information that the Secretary determines sufficient to prove the following:
9

10 (A) That the alien has been continually
11 physically present in the United States since
12 July 4, 2017.

13 (B) That the alien is not inadmissible
14 under section 212(a) of the Immigration and
15 Nationality Act (except that paragraph (9) shall
16 not apply for purposes of this section).

17 (C) That the alien has included payment of
18 a contribution to the American Worker Fund of
19 \$2,000.

20 (2) SUBMISSION OF BIOMETRIC AND BIO-
21 GRAPHIC DATA; BACKGROUND CHECKS.—

22 (A) SUBMISSION OF BIOMETRIC AND BIO-
23 GRAPHIC DATA.—The Secretary may not ap-
24 prove such an application, unless the alien sub-
25 mits biometric and biographic data, in accord-

1 ance with procedures established by the Sec-
2 retary. The Secretary shall provide an alter-
3 native procedure for aliens who are unable to
4 provide such biometric or biographic data be-
5 cause of a physical impairment.

6 (B) BACKGROUND CHECKS.—The Sec-
7 retary shall use biometric, biographic, and other
8 data that the Secretary determines appropriate
9 to conduct security and law enforcement back-
10 ground checks and to determine whether there
11 is any criminal, national security, or other fac-
12 tor that would render the alien ineligible for
13 participation in the Dignity Program in accord-
14 ance with paragraph (3). The application for
15 participation in the Dignity Program may not
16 be approved unless security and law enforce-
17 ment background checks are completed to the
18 satisfaction of the Secretary.

19 (3) GROUNDS OF INELIGIBILITY.—Except as
20 provided in paragraph (2), an alien is ineligible for
21 participation in the Dignity Program if, excluding
22 any offense under State law for which an essential
23 element is the alien's immigration status, and any
24 minor traffic offense, the alien has been convicted
25 of—

1 (A) any felony offense;

2 (B) two or more misdemeanor offenses (ex-
3 cluding simple possession of cannabis or can-
4 nabis-related paraphernalia, any offense involv-
5 ing cannabis or cannabis-related paraphernalia
6 which is no longer prosecutable in the State in
7 which the conviction was entered, and any of-
8 fense involving civil disobedience without vio-
9 lence) not occurring on the same date, and not
10 arising out of the same act, omission, or scheme
11 of misconduct; or

12 (C) a misdemeanor offense of domestic vio-
13 lence, unless the alien demonstrates that such
14 crime is related to the alien having been—

15 (i) a victim of domestic violence, sex-
16 ual assault, stalking, child abuse or ne-
17 glect, abuse or neglect in later life, or
18 human trafficking;

19 (ii) battered or subjected to extreme
20 cruelty; or

21 (iii) a victim of criminal activity de-
22 scribed in section 101(a)(15)(U)(iii) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1101(a)(15)(U)(iii)).

1 **SEC. 4003. REGISTRATION; DEPARTURE.**

2 (a) REGISTRATION.—Any alien approved to partici-
3 pate in the Dignity Program shall—

4 (1) register with the Secretary of Homeland Se-
5 curity;

6 (2) submit biometric and biographic data to the
7 Secretary;

8 (3) submit a sworn declaration stipulating to
9 presence in the United States without a lawful immi-
10 gration status, and, as appropriate, unlawful pres-
11 ence, in the United States;

12 (b) DEPARTURE.—Not later than 24 months after
13 the date of enactment of this Act, any alien present in
14 the United States without lawful status under the immi-
15 gration laws, or not participating in the programs outlined
16 in title A or B or seeking Certified Agricultural Worker
17 status under this Act shall apply for the Dignity Program
18 or depart the United States.

19 (c) INTENTIONAL SELF-DEPORTATION.—Any alien
20 that voluntarily departs the United States not later than
21 24 months after the date of enactment of this Act shall
22 not be subject to the provisions of section 212(a)(9) of
23 the Immigration and Nationality Act with respect to—

24 (1) any removal ordered under section
25 235(b)(1) of such Act or at the end of proceedings

1 under section 240 of such Act initiated upon the
2 alien's arrival in the United States; or

3 (2) any removal ordered under section 240 of
4 such Act,

5 prior to the date of enactment of this Act.

6 **SEC. 4004. PROGRAM PARTICIPATION.**

7 (a) IN GENERAL.—Any applicant who is approved to
8 participate in the Dignity Program shall make an appear-
9 ance before an immigration judge who shall issue an order
10 deferring further action for a period of 10 years.

11 (b) CONDITIONS.—Each participant in the Dignity
12 Program shall conform to the following:

13 (1) REPORT.—The participant shall biennially
14 report to the Secretary of Homeland Security and
15 provide the following information:

16 (A) Place of residence.

17 (B) Testimony as to good standing within
18 the community.

19 (2) SPONSORSHIP.—A United States national
20 may sponsor a prospective participant by providing
21 not more than half of the restitution due under
22 paragraph (3) and assist with an application.

23 (3) RESTITUTION.—The participant shall pay
24 an additional fee of \$2,000 with each report under

1 paragraph (1), until a total amount of \$10,000 has
2 been paid.

3 (4) **LAWFUL CONDUCT.**—The participant shall
4 comply with all Federal and State laws.

5 (5) **EMPLOYMENT.**—The participant shall re-
6 main, for a period of not less than 5 years during
7 their participation in the Dignity Program, employed
8 (including self-employment and serving as a care-
9 giver) or while enrolled in a course of study at an
10 institute of higher education, as defined in section
11 102 of the Higher Education Act of 1965 (20
12 U.S.C. 1002), or an area career and technical edu-
13 cation school, as defined in section 3 of the Carl D.
14 Perkins Career and Technical Education Act of
15 2006 (20 U.S.C. 2302). The Secretary may waive
16 the application of this paragraph in the case of any
17 alien with dependents under the age of 12, or any
18 alien the Secretary determines would be unable to
19 reasonably comply by reason of a disability or other
20 impediment.

21 (6) **TAXES.**—The participant shall pay any ap-
22 plicable taxes and satisfy any tax obligations out-
23 standing as of the date of application approval.

24 (7) **SUPPORT DEPENDENTS.**—The participant
25 shall support any dependents including by providing

1 food, shelter, clothing, education, and covering basic
2 medical needs.

3 (8) MEDICAL COSTS.—

4 (A) IN GENERAL.—The participant shall
5 be enrolled under qualifying health coverage.

6 (B) DEFINITION.—For purposes of this
7 paragraph, the term “qualifying health cov-
8 erage” means, with respect to the participant,
9 the higher of the following levels of coverage ap-
10 plicable to such alien:

11 (i) At a minimum, catastrophic health
12 insurance coverage that provides coverage
13 of such individual with respect to at least
14 the State of employment and State of resi-
15 dence of the alien.

16 (ii) In the case of an alien whose
17 State of residence or State of employment
18 requires such an alien to maintain cov-
19 erage under health insurance, such health
20 insurance.

21 (9) PUBLIC BENEFITS.—Beginning on the date
22 of participation in the Dignity Program, the partici-
23 pant shall not avail himself or herself of any Federal
24 means-tested benefits or entitlement programs. For
25 purposes of this paragraph, any benefits received by

1 a child or dependent that is a United States citizen
2 living in the same household shall not be taken into
3 account.

4 (10) LEVY.—In addition to other taxes, there is
5 hereby imposed on the income of every participant a
6 tax equal to 2 percent of the wages (as defined in
7 section 3121(a) of the Internal Revenue Code of
8 1986) received by the individual with respect to em-
9 ployment (as defined in section 3121(b) the Internal
10 Revenue Code of 1986). The participant shall com-
11 ply with the requirements of section 9512 of the In-
12 ternal Revenue Code of 1986.

13 (11) EXEMPTION FROM CERTAIN PAYROLL
14 TAXES.—A participant shall not be liable for any tax
15 under section 3101 or 3102 of the Internal Revenue
16 Code of 1986.

17 (c) VIOLATIONS.—If a participant violates a condi-
18 tion under subsection (b), the Secretary may at the Sec-
19 retary's discretion, waive enforcement of minor violations
20 including late fees, take extenuating circumstances into ef-
21 fect, or consider factors of undue hardship, but in all other
22 cases, the Secretary shall initiate removal proceedings. In
23 such proceedings, the immigration judge may make a de-
24 termination as to whether to order removal or to issue an

1 order modifying the conditions of that participant's par-
2 ticipation in the Dignity Program.

3 **SEC. 4005. COMPLETION.**

4 (a) IN GENERAL.—Upon satisfying the conditions set
5 forth in subsection (b) and thereby successfully completing
6 the Dignity Program, and subject to sections 1151 and
7 6115 of division A of this Act, the participant may
8 choose—

9 (1) to receive a visa or status under this section
10 ; or

11 (2) to register for the Redemption Program
12 under subtitle B.

13 (b) COMPLETION.—The conditions set forth in this
14 subsection for successful completion of the Dignity Pro-
15 gram are as follows:

16 (1) Compliance with all requirements of sub-
17 section (b)(1).

18 (2) Compliance with all requirements of sub-
19 section (b)(2).

20 (3) Compliance with the requirement of sub-
21 section (b)(3) for the entire period of the participa-
22 tion in the Dignity Program.

23 (c) DIGNITY VISA.—The visa or status under this
24 section—

25 (1) shall be valid for a period of 5 years;

1 (2) may be renewed any number of times;

2 (3) shall provide the alien with—

3 (A) lawful status as a nonimmigrant;

4 (B) authorization for employment; and

5 (C) the ability to reenter the United States

6 any number of times; and

7 (4) shall preclude the alien from adjusting to

8 any other status.

9 (d) REDEMPTION PROGRAM.—Upon renewal of a visa
10 under this section, an applicant may choose to register for
11 the Redemption Program under subtitle B.

12 **Subtitle B—Redemption Program**

13 **SEC. 4101. ESTABLISHMENT.**

14 (a) ESTABLISHMENT.—There is established a pro-
15 gram, to be known as the “Redemption Program”, under
16 which eligible applicants may acquire conditional redemp-
17 tion status, and shall be authorized to apply for lawful
18 permanent residency under the immigration laws in ac-
19 cordance with section 4103. Such status shall be valid for
20 a period of 5 years, and may be renewed any number of
21 times.

22 (b) ELIGIBILITY.—To be eligible to apply under the
23 Redemption Program, an applicant shall be an alien who
24 has successfully completed the Dignity Program under
25 subtitle A.

1 (c) STATUS.—In the case of an alien who is an eligi-
2 ble applicant granted conditional redemption status under
3 this section, the alien—

4 (1) may not be removed or return the alien to
5 the alien's country of nationality or, in the case of
6 a person having no nationality, the country of the
7 alien's last habitual residence;

8 (2) shall be authorized to engage in employ-
9 ment in the United States and be provided with ap-
10 propriate endorsement of that authorization; and

11 (3) may be allowed the alien to travel abroad
12 with prior consent.

13 (d) CONDITIONALITY.—Conditional redemption sta-
14 tus does not convey a right to remain permanently in the
15 United States, and may be terminated if it is determined
16 that the alien has violated any condition set forth under
17 section 4102.

18 **SEC. 4102. CONDITIONS.**

19 An alien receiving conditional status under section
20 4101 shall comply with the following:

21 (1) The alien shall report to the Secretary of
22 Homeland Security every 20 months.

23 (2) The alien shall maintain an accurate record
24 with the Secretary of the following:

25 (A) The alien's place of residence.

1 (B) Testimony regarding good standing
2 within the community.

3 (3) The alien shall complete either of the fol-
4 lowing:

5 (A) Payment of additional fees of \$2,500
6 upon each report under paragraph (1), but not
7 to exceed a total of \$7,500; or

8 (B) Certification that the alien has com-
9 pleted such community service requirement as
10 the Secretary may establish, consistent with the
11 following:

12 (i) Not less than 200 hours of com-
13 munity service shall be required.

14 (ii) The community service may be
15 completed with the National Service Corps
16 or with other, local community service pro-
17 viders, as the Secretary determines appro-
18 priate.

19 (4) The alien has learned English.

20 (5) The alien has learned United States civics.

21 **SEC. 4103. COMPLETION AND REMOVAL OF CONDITIONAL**
22 **STATUS.**

23 If an alien maintains compliance with the require-
24 ments of this section for a period of 5 years beginning
25 on the date that the alien's application for participation

1 in the Redemption Program is approved, then that alien
2 shall be eligible to apply for adjustment of status to that
3 of a lawful permanent resident, except that the alien's sta-
4 tus granted under section 4101 may not be extended un-
5 less the alien demonstrates that the alien satisfies the re-
6 quirements under section 312(a) of the Immigration and
7 Nationality Act (8 U.S.C. 1423(a)).

8 **Subtitle C—Contribution to**
9 **American Workers**

10 **SEC. 4200. PURPOSE.**

11 This subtitle shall direct restitution payments from
12 the Dignity and Redemption programs to be disbursed to
13 American workers through promoting apprenticeships and
14 other work-based learning programs for small and me-
15 dium-sized businesses within in-demand industry sectors,
16 through the establishment and support of industry or sec-
17 tor partnerships.

18 **SEC. 4201. AVAILABILITY OF FUNDS.**

19 From funds paid by restitution under title IV of divi-
20 sion B of the Dignity for Immigrants while Guarding our
21 Nation to Ignite and Deliver the American Dream Act and
22 available under section 286(s)(2) of the Immigration and
23 Nationality Act (8 U.S.C. 1356(s)(2)), the Secretary shall
24 carry out this Act.

1 **SEC. 4202. CONFORMING AMENDMENTS.**

2 (a) AMERICAN COMPETITIVENESS AND WORKFORCE
3 IMPROVEMENT ACT OF 1998.—Section 414(c) of the
4 American Competitiveness and Workforce Improvement
5 Act of 1998 (29 U.S.C. 2916a) is repealed.

6 (b) IMMIGRATION AND NATIONALITY ACT.—Section
7 286(s)(2) of the Immigration and Nationality Act (8
8 U.S.C. 1356(s)(2)) is amended to read as follows:

9 “(2) USE OF FEES FOR WORK-BASED LEARNING
10 PROGRAMS.—90 percent of amounts deposited into
11 the H–1B Nonimmigrant Petitioner Account pursu-
12 ant to the Dignity for Immigrants while Guarding
13 our Nation to Ignite and Deliver the American
14 Dream Act shall remain available to the Secretary of
15 Labor until expended to carry out the Dignity for
16 Immigrants while Guarding our Nation to Ignite
17 and Deliver the American Dream Act.”.

18 **PART 1—PROMOTING APPRENTICESHIPS**
19 **THROUGH REGIONAL TRAINING NETWORKS**

20 **SEC. 4301. DEFINITIONS.**

21 In this Act:

22 (1) ELIGIBLE PARTNERSHIP.—The term “eligi-
23 ble partnership” means an industry or sector part-
24 nership as defined in section 3 of the Workforce In-
25 novation and Opportunity Act (29 U.S.C. 3102) that

1 submits and obtains approval of an application con-
2 sistent with section 5(c).

3 (2) IN-DEMAND INDUSTRY SECTOR.—The term
4 “in-demand industry sector” means a sector de-
5 scribed in subparagraphs (A)(i) and (B) of section
6 3(23) of the Workforce Innovation and Opportunity
7 Act (29 U.S.C. 3102(23)).

8 (3) LOCAL OR REGIONAL.—The term “local or
9 regional”, used with respect to an entity, means that
10 the entity provides services in, respectively, a local
11 area or region.

12 (4) WORKFORCE TERMS.—The terms “Gov-
13 ernor”, “individual with a barrier to employment”,
14 “industry or sector partnership”, “local area”, “local
15 board”, “State board”, “outlying area”, “recognized
16 postsecondary credential”, “region”, “State”, and
17 “supportive services”, used with respect to activities
18 supported under this Act, have the meanings given
19 the terms in section 3 of the Workforce Innovation
20 and Opportunity Act (29 U.S.C. 3102).

21 (5) SECRETARY.—The term “Secretary” means
22 the Secretary of Labor.

23 **SEC. 4302. ALLOTMENTS TO STATES.**

24 (a) RESERVATION.—Of the amounts available for this
25 Act under section 4, the Secretary may reserve—

1 (1) not more than 5 percent of those amounts
2 for the costs of technical assistance and Federal ad-
3 ministration of this Act;

4 (2) not more than 2 percent of those amounts
5 for the costs of evaluations conducted under section
6 8(b); and

7 (3) not more than 1/4 of 1 percent of such
8 amounts to provide assistance to the outlying areas.

9 (b) ALLOTMENTS.—

10 (1) IN GENERAL.—Of the amounts available for
11 this Act under section 4 that remain after the Sec-
12 retary makes the reservations under subsection (a),
13 the Secretary shall, for the purpose of supporting
14 (which may include assistance in establishing ex-
15 panded) local or regional eligible partnerships to
16 support work-based learning programs under this
17 Act, make allotments to eligible States in accordance
18 with clauses (ii) through (v) of section 132(b)(1)(B)
19 of the Workforce Innovation and Opportunity Act
20 (29 U.S.C. 3162(b)(1)(C)), subject to paragraph
21 (2).

22 (2) APPLICATION.—For purposes of applying
23 the clauses described in paragraph (1), under para-
24 graph (1), the Secretary—

1 (A) shall not apply subclauses (I) and (III)
2 of clause (iv) with respect to the first fiscal year
3 after the date of enactment of this Act;

4 (B) shall apply clause (iv)(II) by sub-
5 stituting “0.5 percent of the remaining amounts
6 described in paragraph (1)” for the total de-
7 scribed in that clause;

8 (C) shall not apply clause (iv)(IV);

9 (D) shall apply clause (v)(II) by sub-
10 stituting the term “allotment percentage”, used
11 with respect to the second full fiscal year after
12 the date of enactment of this Act, or a subse-
13 quent fiscal year, means a percentage of the re-
14 maining amounts described in paragraph (1)
15 that is received through an allotment made
16 under this subsection for the fiscal year for the
17 two sentences in that clause; and

18 (E) shall apply clause (v)(III) by sub-
19 stituting “a work-based learning program car-
20 ried out under this Act” for “a program of
21 workforce investment activities carried out
22 under this subtitle”.

23 (3) USE OF UNALLOTTED FUNDS.—If a State
24 fails to meet the requirements for an allotment
25 under this subsection, the Secretary may allot funds

1 that are not allotted under paragraphs (1) and (2)
2 to eligible States under a formula based on the for-
3 mula specified in section 132(c) of the Workforce In-
4 novation and Opportunity Act (29 U.S.C. 3173(c)).

5 (4) DEFINITION.—In this subsection, the term
6 “eligible State” means a State that meets the re-
7 quirements of section 102 or 103 of the Workforce
8 Innovation and Opportunity Act (29 U.S.C. 3112,
9 3113) and subsection (c).

10 (c) STATE ELIGIBILITY.—To be eligible to receive an
11 allotment under subsection (b), a State, in consultation
12 with State boards and local boards, shall submit an appli-
13 cation to the Secretary, at such time, in such manner, and
14 containing a description of the activities to be carried out
15 with the grant funds. At a minimum, the application shall
16 include information on—

17 (1) the local or regional industry or sector part-
18 nerships that will be supported, including the lead
19 partners for the partnerships, and how the partner-
20 ships will work to engage small and medium-sized
21 businesses, as applicable, in the activities of the
22 partnerships;

23 (2) the in-demand industry sectors that will be
24 served, including how such industry sectors were
25 identified, and how the activities of the partnerships

1 will align with State, regional, and local plans as re-
2 quired under title I of the Workforce Innovation and
3 Opportunity Act (29 U.S.C. 3111 et seq.);

4 (3) the apprenticeship programs or other work-
5 based learning programs to be supported through the
6 partnerships;

7 (4) the populations that will receive services, in-
8 cluding individuals with barriers to employment and
9 populations that were historically underrepresented
10 in the industry sectors to be served through the
11 partnerships;

12 (5) the services, including business engagement,
13 classroom instruction, and support services (includ-
14 ing at least 6 months of post-employment support
15 services), that will be supported through the grant
16 funds;

17 (6) the recognized postsecondary credentials
18 that workers will obtain through participation in the
19 program and the quality of the program that leads
20 to the credentials;

21 (7) levels of performance to be achieved on the
22 performance indicators described in section 8, to
23 measure progress towards expanding work-based
24 learning programs;

1 (8) how local or regional partnerships will lever-
2 age additional resources, including funding provided
3 under title I of the Workforce Innovation and Op-
4 portunity Act (29 U.S.C. 3111 et seq.) and non-
5 Federal resources, to support the activities carried
6 out under this Act; and

7 (9) such other subjects as the Secretary may
8 require.

9 (d) REVIEW OF APPLICATIONS.—The Secretary shall
10 review applications submitted under subsection (c) in con-
11 sultation with the Secretary of Education and the Sec-
12 retary of Health and Human Services.

13 **SEC. 4303. GRANTS TO PARTNERSHIPS.**

14 (a) GRANTS.—

15 (1) IN GENERAL.—The Governor of a State
16 that receives an allotment under section 5 shall use
17 the funds made available through the allotment and
18 not reserved under subsection (d) to award grants to
19 eligible partnerships. The Governor shall award the
20 grants for the purpose of assisting (which may in-
21 clude establishing or expanding) local or regional in-
22 dustry or sector partnerships that are identified in
23 the application submitted under section 5(c), to
24 carry out activities described in section 7.

1 (2) PERIOD OF GRANT.—A State may make a
2 grant under this section for a period of 3 years.

3 (3) AVAILABILITY OF FUNDS.—The Governor of
4 a State that receives an allotment under section 5
5 for a fiscal year may use the funds made available
6 through the allotment during that year or the 2 sub-
7 sequent fiscal years.

8 (b) ELIGIBILITY.—To be eligible to receive a grant
9 under this section, an industry or sector partnership de-
10 scribed in subsection (a)(1) shall—

11 (1) submit an application to the State at such
12 time, in such manner, and containing such informa-
13 tion as the State may require; and

14 (2) designate a partner in the industry or sector
15 partnership, to serve as the fiscal agent for purposes
16 of the grant.

17 (c) AWARDS OF GRANTS.—

18 (1) PARTICIPATION IN MULTIPLE ELIGIBLE
19 PARTNERSHIPS.—Subject to paragraph (2), a State
20 may award grants under this section in a way that
21 results in an entity being represented in more than
22 one partnership that receives such a grant.

23 (2) GEOGRAPHIC DIVERSITY.—In making the
24 grants, a State shall ensure that there is geographic

1 diversity in the areas in which activities will be car-
2 ried out under the grants.

3 (d) ADMINISTRATION.—The State may reserve not
4 more than 5 percent of the amount of an allotment under
5 section 5 for the administration of the grants awarded
6 under this section.

7 **SEC. 4304. USE OF FUNDS.**

8 (a) IN GENERAL.—An eligible partnership that re-
9 ceives a grant under section 6 shall use the grant funds
10 to support apprenticeships or other work-based learning
11 programs. The eligible partnership shall use the grant
12 funds to support the activities described in subsections (b)
13 and (c) and such other strategies as may be necessary to
14 support the development and implementation of work-
15 based learning programs, and participant retention in and
16 completion of those programs. The partnership may use
17 the grant funds to establish or expand eligible partner-
18 ships.

19 (b) BUSINESS ENGAGEMENT.—The eligible partner-
20 ship shall use grant funds to provide services to engage
21 businesses in work-based learning programs, which may
22 include assisting a small or medium-sized business with—

23 (1) the navigation of the registration process
24 for a sponsor of an apprenticeship program;

1 (2) the connection of the business with an edu-
2 cation provider to develop classroom instruction to
3 complement on-the-job learning;

4 (3) the development of a curriculum for a work-
5 based learning program;

6 (4) the employment of workers in a work-based
7 learning program for a transitional period before the
8 business hires an individual for continuing employ-
9 ment;

10 (5) the provision of training to managers and
11 front-line workers to serve as trainers or mentors to
12 workers in the work-based learning program;

13 (6) the provision of career awareness activities;
14 and

15 (7) the recruitment of individuals to participate
16 in a work-based learning program from individuals
17 receiving additional workforce and human services,
18 including—

19 (A) workers in programs under the Work-
20 force Innovation and Opportunity Act (29
21 U.S.C. 3101 et seq.);

22 (B) recipients of assistance through the
23 supplemental nutrition assistance program es-
24 tablished under the Food and Nutrition Act of
25 2008 (7 U.S.C. 2011 et seq.); and

1 (C) recipients of assistance through the
2 program of block grants to States for tem-
3 porary assistance for needy families established
4 under part A of title IV of the Social Security
5 Act (42 U.S.C. 601 et seq.).

6 (c) SUPPORT SERVICES FOR WORKERS.—

7 (1) IN GENERAL.—The eligible partnership
8 shall use grant funds to provide support services for
9 workers to assure their success in work-based learn-
10 ing programs, which may include—

11 (A) connection of individuals with adult
12 basic education during pre-work-based learning
13 or training, and during the period of employ-
14 ment;

15 (B) connection of individuals with pre-
16 work-based learning or training, including
17 through a pre-apprenticeship program;

18 (C) provision of additional mentorship and
19 retention supports for individuals pre-work-
20 based learning or training, and during the pe-
21 riod of employment;

22 (D) provision of tools, work attire, and
23 other required items necessary to start employ-
24 ment pre-work-based learning or training, and
25 during the period of employment; and

1 (E) provision of transportation, child care
2 services, or other support services pre-work-
3 based learning or training, and during the pe-
4 riod of employment.

5 (2) LENGTH OF SERVICES.—Each eligible part-
6 nership shall provide support services for workers for
7 not less than 12 months after the date of placement
8 of an individual in a work-based learning program.
9 That 12-month period shall include a period of pre-
10 work-based learning or training, a transitional pe-
11 riod of employment as described in subsection
12 (b)(4), and a period of continuing employment.

13 **SEC. 4305. PERFORMANCE AND ACCOUNTABILITY.**

14 (a) LOCAL REPORTS.—Not later than 1 year after
15 receiving a grant under section 6, and annually thereafter,
16 each eligible partnership in a State shall conduct an eval-
17 uation and submit to the State a local report containing
18 information on—

19 (1) levels of performance achieved by the eligi-
20 ble partnership with respect to the performance indi-
21 cators under section 116(b)(2)(A) of the Workforce
22 Innovation and Opportunity Act (29 U.S.C.
23 3141(b)(2)(A))—

24 (A) for all workers in the work-based
25 learning program involved; and

1 (B) for all such workers, disaggregated by
2 each population specified in section 3(24) of the
3 Workforce Innovation and Opportunity Act (29
4 U.S.C. 3102(24)) and by race, ethnicity, sex,
5 and age; and

6 (2) levels of performance achieved by the eligi-
7 ble partnership with respect to the performance indi-
8 cators under that section 116(b)(2)(A)—

9 (A) for individuals with barriers to employ-
10 ment in the work-based learning program in-
11 volved; and

12 (B) for all such individuals, disaggregated
13 by each population specified in section 3(24) of
14 the Workforce Innovation and Opportunity Act
15 and by race, ethnicity, sex, and age.

16 (b) STATE REPORTS.—Not later than 24 months
17 after receiving initial local reports under subsection (a)
18 (but in no case less than 18 months after the cor-
19 responding grants are awarded) and annually thereafter,
20 the State shall conduct an evaluation and submit a report
21 to the Secretary containing—

22 (1) the information provided by the eligible
23 partnerships through the local reports; and

1 (2) the State level of performance, aggregated
2 across all eligible partnerships, with respect to the
3 performance indicators described in subsection (a).

4 **PART 2—HIGH-DEMAND CAREERS**

5 **SEC. 4401. GRANTS FOR ACCESS TO HIGH-DEMAND CA-**
6 **REERS.**

7 (a) PURPOSE.—The purpose of this section is to ex-
8 pand student access to, and participation in, new industry-
9 led earn-and-learn programs leading to high-wage, high-
10 skill, and high-demand careers.

11 (b) AUTHORIZATION OF APPRENTICESHIP GRANT
12 PROGRAM.—

13 (1) IN GENERAL.—From the amounts author-
14 ized under subsection (j), the Secretary shall award
15 grants, on a competitive basis, to eligible partner-
16 ships for the purpose described in subsection (a).

17 (2) DURATION.—The Secretary shall award
18 grants under this section for a period of—

19 (A) not less than 1 year; and

20 (B) not more than 4 years.

21 (3) LIMITATIONS.—

22 (A) NUMBER OF AWARDS.—An eligible
23 partnership or member of such partnership may
24 not be awarded more than one grant under this
25 section.

1 (B) ADMINISTRATION COSTS.—An eligible
2 partnership awarded a grant under this section
3 may not use more than 5 percent of the grant
4 funds to pay administrative costs associated
5 with activities funded by the grant.

6 (c) MATCHING FUNDS.—To receive a grant under
7 this section, an eligible partnership shall, through cash or
8 in-kind contributions, provide matching funds from non-
9 Federal sources in an amount equal to or greater than
10 50 percent of the amount of such grant.

11 (d) APPLICATIONS.—

12 (1) IN GENERAL.—To receive a grant under
13 this section, an eligible partnership shall submit to
14 the Secretary at such a time as the Secretary may
15 require, an application that—

16 (A) identifies and designates the business
17 or institution of higher education responsible
18 for the administration and supervision of the
19 earn-and-learn program for which such grant
20 funds would be used;

21 (B) identifies the businesses and institu-
22 tions of higher education that comprise the eli-
23 gible partnership;

24 (C) identifies the source and amount of the
25 matching funds required under subsection (c);

1 (D) identifies the number of students who
2 will participate and complete the relevant earn-
3 and-learn program within 1 year of the expira-
4 tion of the grant;

5 (E) identifies the amount of time, not to
6 exceed 2 years, required for students to com-
7 plete the program; identifies the relevant recog-
8 nized postsecondary credential to be awarded to
9 students who complete the program;

10 (G) identifies the anticipated earnings of
11 students

12 (i) 1 year after program completion;

13 and

14 (ii) 3 years after program completion;

15 (H) describes the specific project for which
16 the application is submitted, including a sum-
17 mary of the relevant classroom and paid struc-
18 tured on-the-job training students will receive;

19 (I) describes how the eligible partnership
20 will finance the program after the end of the
21 grant period;

22 (J) describes how the eligible partnership
23 will support the collection of information and
24 data for purposes of the program evaluation re-
25 quired under subsection (h); and

1 (K) describes the alignment of the pro-
2 gram ,with State identified in-demand industry
3 sectors.

4 (e) EVALUATION.—

5 (1) IN GENERAL.—From the amounts made
6 available under subsection (), the Secretary shall
7 provide for the independent evaluation of the grant
8 program established under this section that includes
9 the following:

10 (A) The number of eligible individuals who
11 participated in programs assisted under this
12 section.

13 (B) The percentage of program partici-
14 pants who are in unsubsidized employment dur-
15 ing the second quarter after exit from the pro-
16 gram.

17 (C) The percentage of program partici-
18 pants who are in unsubsidized employment dur-
19 ing the fourth quarter after exit from the pro-
20 gram.

21 (D) The median earnings of program par-
22 ticipants who are in unsubsidized employment
23 during the second quarter after exit from the
24 program.

1 (E) The percentage of program partici-
2 pants who obtain a recognized postsecondary
3 credential during participation in the program.

4 (2) PUBLICATION.—The evaluation required by
5 this subsection shall be made publicly available on
6 the website of the Department.

7 (f) DEFINITIONS.—In this section:

8 (1) EARN-AND-LEARN PROGRAM.—The term
9 “earn-and-learn program” means an education pro-
10 gram, including an apprenticeship program, that
11 provides students with structured, sustained, and
12 paid on-the-job training and accompanying, for cred-
13 it, classroom instruction that—

14 (A) is for a period of between 3 months
15 and 2 years; and

16 (B) leads to, on completion of the pro-
17 gram, a recognized postsecondary credential.

18 (2) ELIGIBLE PARTNERSHIP.—The term “eligi-
19 ble partnership” shall mean a consortium that in-
20 cludes—

21 (A) 1 or more businesses; and

22 (B) 1 or more institutions of higher edu-
23 cation.

24 (3) IN-DEMAND INDUSTRY SECTOR OR
25 OCCUPATION.—The term “in-demand industry sec-

1 tor or occupation” has the meaning given the term
2 in section 3 of the Workforce Innovation and Oppor-
3 tunity 13 Act (29 U.S.C. 3102).

4 (4) ON-THE-JOB TRAINING.—the term “onthe-
5 job training” has the meaning given the term in sec-
6 tion 3 of the Workforce Innovation and Opportunity
7 Act (29 U.S.C. 3102).

8 (5) RECOGNIZED POSTSECONDARY CREDEN-
9 TIAL.—The term “recognized postsecondary creden-
10 tial” has the meaning given the term in section 3 of
11 the Workforce Innovation and Opportunity Act (29
12 U.S.C. 3102).

13 **DIVISION C—IMPROVING THE H-**
14 **2B NONIMMIGRANT WORKER**
15 **PROGRAM**

16 **SEC. 1001. SHORT TITLE.**

17 This division may be cited as the “H-2B Returning
18 Worker Exception Act”.

19 **SEC. 1002. DEFINITIONS.**

20 For purposes of this division:

21 (1) The term “H-2B”, when used with respect
22 to a worker or other individual, refers an alien ad-
23 mitted or provided status as a nonimmigrant de-
24 scribed in section 101(a)(15)H(ii)(b) of the Immi-
25 gration and Nationality Act (8 U.S.C.

1 1101(a)(15)(H)(ii)(b)). Such term, when used with
2 respect to a petition, procedure, process, program, or
3 visa, refers to a petition, procedure, process, pro-
4 gram, or visa related to admission or provision of
5 status under such section.

6 (2) The term “job order” means the document
7 containing the material terms and conditions of em-
8 ployment, including obligations and assurances re-
9 quired under this division or any other law.

10 (3) The term “United States worker” means
11 any employee who is—

12 (A) a national of the United States (as de-
13 fined in section 101(a)(22) of the Immigration
14 and Nationality Act (8 U.S.C. 1101(a)(22))); or

15 (B) an alien lawfully admitted for perma-
16 nent residence, is admitted as a refugee under
17 section 207 of such Act (8 U.S.C. 1157), is
18 granted asylum under section 208 of such Act
19 (8 U.S.C. 1158), or is an immigrant otherwise
20 authorized by the immigration laws (as defined
21 in section 101(a)(17) of such Act (8 U.S.C.
22 1101(a)(17))) or the Secretary of Homeland
23 Security to be employed.

1 **SEC. 1003. H-2B CAP RELIEF.**

2 (a) H-2B NUMERICAL LIMITATIONS.—Section
3 214(g)(9)(A) of the Immigration and Nationality Act (8
4 U.S.C. 1184(g)(9)(A)) is amended—

5 (1) by striking “fiscal year 2013, 2014, or
6 2015” and inserting “1 of the 3 preceding fiscal
7 years”; and

8 (2) by striking “fiscal year 2016” and inserting
9 “a fiscal year”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect on October 1, 2021. If this
12 section is enacted after such date, the amendment made
13 by subsection (a) shall take effect as if enacted on such
14 date.

15 **SEC. 1004. INCREASED SANCTIONS FOR WILLFUL MIS-**
16 **REPRESENTATION OR FAILURE TO MEET THE**
17 **REQUIREMENTS FOR PETITIONING FOR AN**
18 **H-2B WORKER.**

19 Section 214 of the Immigration and Nationality Act
20 (8 U.S.C. 1184) is amended—

21 (1) in subsection (c)(13)(B), by striking
22 “\$150” and inserting “\$350”; and

23 (2) in subsection (c)(14)(A)(i), by striking
24 “may, in addition to any other remedy authorized by
25 law, impose such administrative remedies (including
26 civil monetary penalties in an amount not to exceed

1 \$10,000 per violation)” and inserting “shall impose
2 civil monetary penalties in an amount of not less
3 than \$1,000 but not to exceed \$10,000 per violation,
4 in addition to any other remedy authorized by law,
5 and may impose such other administrative rem-
6 edies”.

7 **SEC. 1005. REDUCTION OF PAPERWORK BURDEN.**

8 (a) STREAMLINED H-2B PLATFORM.—

9 (1) IN GENERAL.—Not later than 12 months
10 after the date of the enactment of this division, the
11 Secretary of Homeland Security, in consultation
12 with the Secretary of Labor, the Secretary of State,
13 and the Administrator of the United States Digital
14 Service, shall ensure the establishment of an elec-
15 tronic platform through which employers may sub-
16 mit and request approval of an H-2B petition. Such
17 platform shall—

18 (A) serve as a single point of access for
19 employers to input all information and sup-
20 porting documentation required for obtaining
21 labor certification from the Secretary of Labor
22 and the adjudication of the petition by the Sec-
23 retary of Homeland Security;

24 (B) serve as a single point of access for the
25 Secretary of Homeland Security, the Secretary

1 of Labor, the Secretary of State, and State
2 workforce agencies concurrently to perform
3 their respective review and adjudicatory respon-
4 sibilities in the petition process;

5 (C) facilitate communication between em-
6 ployers and agency adjudicators, including by
7 allowing employers to—

8 (i) receive and respond to notices of
9 deficiency and requests for information;

10 (ii) receive notices of approval and de-
11 nial; and

12 (iii) request reconsideration or appeal
13 of agency decisions; and

14 (D) provide information to the Secretary of
15 State and the Secretary of Homeland Security
16 necessary for the efficient and secure processing
17 of H–2B visas and applications for admission.

18 (2) OBJECTIVES.—In developing the platform
19 described in paragraph (1), the Secretary of Home-
20 land Security, in consultation with the Secretary of
21 Labor, the Secretary of State, and the Adminis-
22 trator of the United States Digital Service, shall
23 make an effort to streamline and improve the H–2B
24 process, including by—

1 (A) eliminating the need for employers to
2 submit duplicate information and documenta-
3 tion to multiple agencies;

4 (B) reducing common petition errors, and
5 otherwise improving and expediting the proc-
6 essing of H-2B petitions;

7 (C) ensuring compliance with H-2B pro-
8 gram requirements and the protection of the
9 wages and working conditions of workers; and

10 (D) eliminating unnecessary government
11 waste.

12 (3) ENHANCEMENT OF EXISTING PLATFORM.—

13 If the Secretary of Homeland Security, the Sec-
14 retary of Labor, the Secretary of State, or the State
15 workforce agencies already have an electronic plat-
16 form with respect to the H-2B process on the date
17 of the enactment of this division, they shall enhance
18 it as necessary so as to ensure that adjudication of
19 an H-2B petition may be conducted electronically as
20 specified in this section.

21 (b) ONLINE JOB REGISTRY.—The Secretary of Labor
22 shall maintain a publicly-accessible online job registry and
23 database of all job orders submitted by H-2B employers.
24 The registry and database shall—

1 (1) be searchable using relevant criteria, includ-
2 ing the types of jobs needed to be filled, the dates
3 and locations of need, and the employers named in
4 the job order;

5 (2) provide an interface for workers in English,
6 Spanish, and any other language that the Secretary
7 of Labor determines to be appropriate; and

8 (3) provide for public access of job order certifi-
9 cations.

10 **SEC. 1006. WORKPLACE SAFETY.**

11 (a) **WORKSITE SAFETY AND COMPLIANCE PLAN.**—
12 If the employer is seeking to employ an H-2B worker pur-
13 suant to this division and the Immigration and Nationality
14 Act (8 U.S.C. 1101 et seq.), the employer shall maintain
15 an effective worksite safety and compliance plan to ensure
16 safety and reduce workplace illnesses, injuries and fatali-
17 ties. Such plan shall—

18 (1) be in writing in English and, to the extent
19 necessary, any language common to a significant
20 portion of the workers if they are not fluent in
21 English; and

22 (2) be posted at a conspicuous location at the
23 worksite and provided to employees prior to the com-
24 mencement of labor or services.

1 (b) CONTENTS OF PLAN.—The Secretary of Labor
2 shall establish by regulation the minimum requirements
3 for the plan described in subsection (a). Such plan shall
4 include measures to—

5 (1) protect against sexual harassment and vio-
6 lence, resolve complaints involving harassment or vi-
7 olence, and protect against retaliation against work-
8 ers reporting harassment or violence; and

9 (2) contain other provisions necessary for en-
10 suring workplace safety.

11 **SEC. 1007. FOREIGN LABOR RECRUITING; PROHIBITION ON**
12 **FEEES.**

13 (a) FOREIGN LABOR RECRUITING.—If an employer
14 has engaged any foreign labor contractor or recruiter (or
15 any agent of such a foreign labor contractor or recruiter)
16 in the recruitment of H-2B workers, the employer shall
17 disclose the identity and geographic location of such per-
18 son or entity to the Secretary of Labor in accordance with
19 the regulations of the Secretary.

20 (b) PROHIBITION AGAINST EMPLOYEES PAYING
21 FEEES.—Neither the employer nor its agents shall seek or
22 receive payment of any kind from any worker for any ac-
23 tivity related to the H-2B petition process, including pay-
24 ment of the employer's attorneys' fees, application fees,
25 or recruitment costs. An employer and its agents may re-

1 ceive reimbursement for costs that are the responsibility,
2 and primarily for the benefit, of the worker, such as gov-
3 ernment-required passport fees.

4 (c) **THIRD PARTY CONTRACTS.**—The employer shall
5 contractually forbid any foreign labor contractor or re-
6 cruter (or any agent of a foreign labor contractor or re-
7 cruter) who the employer engages, either directly or indi-
8 rectly, in the recruitment of H–2B workers to seek or re-
9 ceive payments or other compensation from prospective
10 employees. Upon learning that a foreign labor contractor
11 or recruiter has collected such payments, the employer
12 shall terminate any contracts with the foreign labor con-
13 tractor or recruiter.

14 **SEC. 1008. PROGRAM INTEGRITY MEASURES.**

15 (a) **ENFORCEMENT AUTHORITY.**—With respect to
16 the H–2B program, the Secretary of Labor is authorized
17 to take such actions against employers, including imposing
18 appropriate penalties and seeking monetary and injunctive
19 relief and specific performance of contractual obligations,
20 as may be necessary to ensure compliance with—

21 (1) the requirements of this division and the
22 Immigration and Nationality Act (8 U.S.C. 1101 et
23 seq.); and

24 (2) the applicable terms and conditions of em-
25 ployment.

1 (b) COMPLAINT PROCESS.—

2 (1) PROCESS.—With respect to the H-2B pro-
3 gram, the Secretary of Labor shall establish a proc-
4 ess for the receipt, investigation, and disposition of
5 complaints alleging failure of an employer to comply
6 with—

7 (A) the requirements of this division and
8 the Immigration and Nationality Act (8 U.S.C.
9 1101 et seq.); and

10 (B) the applicable terms and conditions of
11 employment.

12 (2) FILING.—Any aggrieved person or organiza-
13 tion, including a bargaining representative, may file
14 a complaint referred to in paragraph (1) not later
15 than 2 years after the date of the conduct that is
16 the subject of the complaint.

17 (3) COMPLAINT NOT EXCLUSIVE.—A complaint
18 filed under this subsection is not an exclusive rem-
19 edy and the filing of such a complaint does not
20 waive any rights or remedies of the aggrieved party
21 under this law or other laws.

22 (4) DECISION AND REMEDIES.—If the Sec-
23 retary of Labor finds, after notice and opportunity
24 for a hearing, that the employer failed to comply
25 with the requirements of this division, the Immigra-

1 tion and Nationality Act (8 U.S.C. 1101 et seq.), or
2 the terms and conditions of employment, the Sec-
3 retary of Labor shall require payment of unpaid
4 wages, unpaid benefits, damages, and civil money
5 penalties. The Secretary is also authorized to impose
6 other administrative remedies, including disqualifica-
7 tion of the employer from utilizing the H-2B pro-
8 gram for a period of up to 5 years in the event of
9 willful or multiple material violations. The Secretary
10 is authorized to permanently disqualify an employer
11 from utilizing the H-2B program upon a subsequent
12 finding involving willful or multiple material viola-
13 tions.

14 (5) DISPOSITION OF PENALTIES.—To the ex-
15 tent provided in advance in appropriations Acts, civil
16 penalties collected under this subsection shall be
17 used by the Secretary of Labor for the administra-
18 tion and enforcement of the provisions of this sec-
19 tion.

20 (6) STATUTORY CONSTRUCTION.—Nothing in
21 this subsection may be construed as limiting the au-
22 thority of the Secretary of Labor to conduct an in-
23 vestigation in the absence of a complaint.

24 (7) RETALIATION PROHIBITED.—It is a viola-
25 tion of this subsection for any person to intimidate,

1 threaten, restrain, coerce, blacklist, discharge, or in
2 any other manner discriminate against, or to cause
3 any person to intimidate, threaten, restrain, coerce,
4 blacklist, or in any manner discriminate against, an
5 employee, including a former employee or an appli-
6 cant for employment, because the employee—

7 (A) has disclosed information to the em-
8 ployer, or to any other person, that the em-
9 ployee reasonably believes evidences a violation
10 of the immigration laws relating to the H-2B
11 program, or any rule or regulation relating to
12 such program;

13 (B) has filed a complaint concerning the
14 employer's compliance with the immigration
15 laws relating to the H-2B program, or any rule
16 or regulation relating to such program;

17 (C) cooperates or seeks to cooperate in an
18 investigation or other proceeding concerning the
19 employer's compliance with the immigration
20 laws relating to the H-2B program, or any rule
21 or regulation relating to such program; or

22 (D) has taken steps to exercise or assert
23 any right or protection under the provisions of
24 this section, or any rule or regulation pertaining

1 to this section, or any other relevant Federal,
2 State, or local law.

3 (c) INTERAGENCY COMMUNICATION.—The Secretary
4 of Labor, in consultation with the Secretary of Homeland
5 Security, Secretary of State and the Equal Employment
6 Opportunity Commission, shall establish mechanisms by
7 which the agencies and their components share informa-
8 tion, including by public electronic means, regarding com-
9 plaints, studies, investigations, findings and remedies re-
10 garding compliance by employers with the requirements
11 of the H-2B program and other employment-related laws
12 and regulations.

13 **SEC. 1009. PROGRAM ELIGIBILITY.**

14 (a) IN GENERAL.—A petition filed by an employer
15 under subsection (c)(1) initially to grant an alien non-
16 immigrant status under section 101(a)(15)(H)(ii)(b) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1101(a)(15)(H)(ii)(b)), or to extend or change to such sta-
19 tus, may be approved only for nationals of countries that
20 the Secretary of Homeland Security has designated as
21 participating countries, with the concurrence of the Sec-
22 retary of State, in a notice published in the Federal Reg-
23 ister, taking into account for each such country factors,
24 including—

1 (1) the fraud rate relating to petitions under
2 section 101(a)(15)(H)(ii) of such Act (8 U.S.C.
3 1101(a)(15)(H)(ii)) filed for by nationals of the
4 country and visa applications under such section
5 filed by nationals of the country;

6 (2) the denial rate of visa applications under
7 such section 101(a)(15)(H)(ii) filed by nationals of
8 the country;

9 (3) the overstay rate of nationals of the country
10 who were admitted to the United States under such
11 section 101(a)(15)(H)(ii);

12 (4) the number of nationals of the country who
13 were admitted to the United States under such sec-
14 tion 101(a)(15)(H)(ii) and who were reported by
15 their employers to—

16 (A) have failed to report to work within 5
17 workdays of the employment start date on the
18 petition or within 5 workdays of the date on
19 which the worker is admitted into the United
20 States pursuant to the petition, whichever is
21 later; or

22 (B) have not reported for work for a pe-
23 riod of 5 consecutive workdays without the con-
24 sent of the employer;

1 (5) the number of final and unexecuted orders
2 of removal against citizens, subjects, nationals, and
3 residents of the country; and

4 (6) such other factors as may serve the United
5 States interest.

6 (b) LIMITATION.—A country may not be included on
7 the list described in subsection (a) if the country denies
8 or unreasonably delays the repatriation of aliens who are
9 subject to a final order of removal and who are citizens,
10 subjects, nationals or residents of that country.

11 (c) STATISTICS.—The Secretary of Homeland Secu-
12 rity shall include in the notice described in subsection (a),
13 for each country included in the list of participating coun-
14 tries, the statistics referenced in paragraphs (1) through
15 (5) of that subsection, if available, for the immediately
16 preceding fiscal year.

17 (d) NATIONAL FROM A COUNTRY NOT ON THE
18 LIST.—A national from a country not on the list described
19 in subsection (a) may be a beneficiary of an approved peti-
20 tion under such section 101(a)(15)(H)(ii) upon the re-
21 quest of a petitioner or potential petitioner, if the Sec-
22 retary of Homeland Security, in his sole and unreviewable
23 discretion, determines that it is in the United States inter-
24 est for that alien to be a beneficiary of such petition. De-

1 termination of such a United States interest will take into
2 account factors, including but not limited to—

3 (1) evidence from the petitioner demonstrating
4 that a worker with the required skills is not available
5 from among foreign workers from a country cur-
6 rently on the list described in subsection (a);

7 (2) evidence that the beneficiary has been ad-
8 mitted to the United States previously in status
9 under such section 101(a)(15)(H)(ii);

10 (3) the potential for abuse, fraud, or other
11 harm to the integrity of the visa program under
12 such section 101(a)(15)(H)(ii) through the potential
13 admission of a beneficiary from a country not cur-
14 rently on the list; and

15 (4) such other factors as may serve the United
16 States interest.

17 (e) DURATION.—Once published, any designation of
18 participating countries pursuant to subsection (a) shall be
19 effective for one year after the date of publication in the
20 Federal Register and shall be without effect at the end
21 of that one-year period.

22 **SEC. 1010. H-2B EMPLOYER NOTIFICATION REQUIREMENT.**

23 (a) IN GENERAL.—An employer of one or more H-
24 2B workers shall, within three business days, make elec-

1 tronic notification, in the manner prescribed by the Sec-
2 retary of Homeland Security, of the following events:

3 (1) Such a worker fails to report to work within
4 5 workdays of the employment start date on the pe-
5 tition or within 5 workdays of the date on which the
6 worker is admitted into the United States pursuant
7 to the petition, whichever is later.

8 (2) The labor or services for which such a work-
9 er was hired is completed more than 30 days earlier
10 than the employment end date stated on the peti-
11 tion.

12 (3) The employment of such a worker is termi-
13 nated prior to the completion of labor or services for
14 which he or she was hired.

15 (4) Such a worker has not reported for work
16 for a period of 5 consecutive workdays without the
17 consent of the employer.

18 (b) EVIDENCE.—An employer shall retain evidence of
19 a notification described in subsection (a) and make it
20 available for inspection by officers of the Department of
21 Homeland Security for a 1-year period beginning on the
22 date of the notification.

23 (c) PENALTY.—The Secretary shall impose civil mon-
24 etary penalties, in an amount not less than \$500 per viola-
25 tion and not to exceed \$1,000 per violation, as the Sec-

1 reitary determines to be appropriate, for each instance
2 where the employer cannot demonstrate that it has com-
3 plied with the notification requirements, unless, in the
4 case of an untimely notification, the employer dem-
5 onstrates with such notification that good cause existed
6 for the untimely notification, and the Secretary of Home-
7 land Security, in the Secretary's discretion, waives such
8 penalty.

9 (d) PROCESS.—If the Secretary has determined that
10 an employer has violated the notification requirements in
11 subsection (a), the employer shall be given written notice
12 and 30 days to reply before being given written notice of
13 the assessment of the penalty.

14 (e) FAILURE TO PAY PENALTY.—If a penalty de-
15 scribed in subsection (c) is not paid within 10 days of as-
16 sessment, no nonimmigrant or immigrant petition may be
17 processed for that employer, nor may that employer con-
18 tinue to employ nonimmigrants, until such penalty is paid.

19 **SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated for fiscal
21 year 2022 and each fiscal year thereafter such sums as
22 may be necessary for the purposes of—

23 (1) recruiting United States workers for labor
24 or services which might otherwise be performed by
25 H-2B workers, including by ensuring that State

1 workforce agencies are sufficiently funded to fulfill
2 their functions under the H–2B program;

3 (2) enabling the Secretary of Labor to make de-
4 terminations and certifications under the H–2B pro-
5 gram in accordance with this division and the Immi-
6 gration and Nationality Act (8 U.S.C. 1101 et seq.),
7 including the operation of the publicly-accessible on-
8 line job registry and database of job orders described
9 in section 1005(b) of this division; and

10 (3) monitoring the terms and conditions under
11 which H–2B workers (and United States workers
12 employed by the same employers) are employed in
13 the United States.

14 **DIVISION D—AMERICAN**
15 **AGRICULTURE DOMINANCE ACT**

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

17 (a) **SHORT TITLE.**—This Act may be cited as the
18 “American Agriculture Dominance Act”.

19 (b) **TABLE OF CONTENTS.**—The table of contents for
20 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 DOMES-**
 2 **TIC AGRICULTURAL WORK-**
 3 **FORCE**

4 **Subtitle A—Status for Certified**
 5 **Agricultural Workers**

6 **SEC. 101. CERTIFIED AGRICULTURAL WORKER STATUS.**

7 (a) REQUIREMENTS FOR CERTIFIED AGRICULTURAL
 8 WORKER STATUS.—

9 (1) PRINCIPAL ALIENS.—The Secretary may
 10 grant certified agricultural worker status to an alien
 11 who submits a completed application, including the

1 required processing fees, before the end of the period
2 set forth in subsection (c) and who—

3 (A) performed agricultural labor or serv-
4 ices in the United States for at least 1,035
5 hours (or 180 work days) during the 2-year pe-
6 riod preceding the date of the introduction of
7 this Act;

8 (B) on the date of the introduction of this
9 Act—

10 (i) is inadmissible or deportable from
11 the United States; or

12 (ii) is under a grant of deferred en-
13 forced departure or has temporary pro-
14 tected status under section 244 of the Im-
15 migration and Nationality Act;

16 (C) subject to section 104, has been con-
17 tinuously present in the United States since the
18 date of the introduction of this Act and until
19 the date on which the alien is granted certified
20 agricultural worker status; and

21 (D) is not otherwise ineligible for certified
22 agricultural worker status as provided in sub-
23 section (b).

24 (2) DEPENDENT SPOUSE AND CHILDREN.—The
25 Secretary may grant certified agricultural dependent

1 status to the spouse or child of an alien granted cer-
2 tified agricultural worker status under paragraph
3 (1) if the spouse or child is not ineligible for cer-
4 tified agricultural dependent status as provided in
5 subsection (b).

6 (b) GROUNDS FOR INELIGIBILITY.—

7 (1) GROUNDS OF INADMISSIBILITY.—Except as
8 provided in paragraph (3), an alien is ineligible for
9 certified agricultural worker or certified agricultural
10 dependent status if the Secretary determines that
11 the alien is inadmissible under section 212(a) of the
12 Immigration and Nationality Act (8 U.S.C.
13 1182(a)), except that in determining inadmis-
14 sibility—

15 (A) paragraphs (4), (5), (7), and (9)(B) of
16 such section shall not apply;

17 (B) subparagraphs (A), (C), (D), (F), and
18 (G) of such section 212(a)(6) and paragraphs
19 (9)(C) and (10)(B) of such section 212(a) shall
20 not apply unless based on the act of unlawfully
21 entering the United States after the date of in-
22 troduction of this Act; and

23 (C) paragraphs (6)(B) and (9)(A) of such
24 section 212(a) shall not apply unless the rel-
25 evant conduct began on or after the date of fil-

1 ing of the application for certified agricultural
2 worker status.

3 (2) ADDITIONAL CRIMINAL BARS.—Except as
4 provided in paragraph (3), an alien is ineligible for
5 certified agricultural worker or certified agricultural
6 dependent status if the Secretary determines that,
7 excluding any offense under State law for which an
8 essential element is the alien’s immigration status
9 and any minor traffic offense, the alien has been
10 convicted of—

11 (A) any felony offense;

12 (B) an aggravated felony (as defined in
13 section 101(a)(43) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(43)) at the
15 time of the conviction);

16 (C) two misdemeanor offenses involving
17 moral turpitude, as described in section
18 212(a)(2)(A)(i)(I) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1182(a)(2)(A)(i)(I)),
20 unless an offense is waived by the Secretary
21 under paragraph (3)(B); or

22 (D) three or more misdemeanor offenses
23 not occurring on the same date, and not arising
24 out of the same act, omission, or scheme of
25 misconduct.

1 (3) WAIVERS FOR CERTAIN GROUNDS OF INAD-
2 MISSIBILITY.—For humanitarian purposes, family
3 unity, or if otherwise in the public interest, the Sec-
4 retary may waive the grounds of inadmissibility
5 under—

6 (A) paragraph (1), (6)(E), or (10)(D) of
7 section 212(a) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1182(a)); or

9 (B) subparagraphs (A) and (D) of section
10 212(a)(2) of the Immigration and Nationality
11 Act (8 U.S.C. 1182(a)(2)), unless inadmis-
12 sibility is based on a conviction that would oth-
13 erwise render the alien ineligible under subpara-
14 graph (A), (B), or (D) of paragraph (2).

15 (c) APPLICATION.—

16 (1) APPLICATION PERIOD.—Except as provided
17 in paragraph (2), the Secretary shall accept initial
18 applications for certified agricultural worker status
19 during the 18-month period beginning on the date
20 on which the interim final rule is published in the
21 Federal Register pursuant to section 122(a).

22 (2) EXTENSION.—If the Secretary determines,
23 during the initial period described in paragraph (1),
24 that additional time is required to process initial ap-
25 plications for certified agricultural worker status or

1 for other good cause, the Secretary may extend the
2 period for accepting applications for up to an addi-
3 tional 12 months.

4 (3) SUBMISSION OF APPLICATIONS.—

5 (A) IN GENERAL.—An alien may file an
6 application with the Secretary under this sec-
7 tion with the assistance of an attorney or a
8 nonprofit religious, charitable, social service, or
9 similar organization recognized by the Board of
10 Immigration Appeals under section 292.2 of
11 title 8, Code of Federal Regulations. The Sec-
12 retary shall also create a procedure for accept-
13 ing applications filed by qualified designated en-
14 tities with the consent of the applicant.

15 (B) FARM SERVICE AGENCY OFFICES.—

16 The Secretary, in consultation with the Sec-
17 retary of Agriculture, shall establish a process
18 for the filing of applications under this section
19 at Farm Service Agency offices throughout the
20 United States.

21 (4) EVIDENCE OF APPLICATION FILING.—As

22 soon as practicable after receiving an application for
23 certified agricultural worker status, the Secretary
24 shall provide the applicant with a document acknowl-
25 edging the receipt of such application. Such docu-

1 ment shall serve as interim proof of the alien's au-
2 thorization to accept employment in the United
3 States and shall be accepted by an employer as evi-
4 dence of employment authorization under section
5 274A(b)(1)(C) of the Immigration and Nationality
6 Act (8 U.S.C. 1324a(b)(1)(C)), if the employer is
7 employing the holder of such document to perform
8 agricultural labor or services, pending a final admin-
9 istrative decision on the application.

10 (5) EFFECT OF PENDING APPLICATION.—Dur-
11 ing the period beginning on the date on which an
12 alien applies for certified agricultural worker status
13 under this subtitle, and ending on the date on which
14 the Secretary makes a final administrative decision
15 regarding such application, the alien and any de-
16 pendents included in the application—

17 (A) may apply for advance parole, which
18 shall be granted upon demonstrating a legiti-
19 mate need to travel outside the United States
20 for a temporary purpose;

21 (B) may not be detained by the Secretary
22 or removed from the United States unless the
23 Secretary makes a prima facie determination
24 that such alien is, or has become, ineligible for
25 certified agricultural worker status;

1 (C) may not be considered unlawfully
2 present under section 212(a)(9)(B) of the Im-
3 migration and Nationality Act (8 U.S.C.
4 1182(a)(9)(B)); and

5 (D) may not be considered an unauthor-
6 ized alien (as defined in section 274A(h)(3) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1324a(h)(3))).

9 (6) WITHDRAWAL OF APPLICATION.—The Sec-
10 retary shall, upon receipt of a request from the ap-
11 plicant to withdraw an application for certified agri-
12 cultural worker status under this subtitle, cease
13 processing of the application, and close the case.
14 Withdrawal of the application shall not prejudice
15 any future application filed by the applicant for any
16 immigration benefit under this Act or under the Im-
17 migration and Nationality Act (8 U.S.C. 1101 et
18 seq.).

19 (d) ADJUDICATION AND DECISION.—

20 (1) IN GENERAL.—Subject to section 123, the
21 Secretary shall render a decision on an application
22 for certified agricultural worker status not later than
23 180 days after the date the application is filed.

1 (2) NOTICE.—Prior to denying an application
2 for certified agricultural worker status, the Sec-
3 retary shall provide the alien with—

4 (A) written notice that describes the basis
5 for ineligibility or the deficiencies in the evi-
6 dence submitted; and

7 (B) at least 90 days to contest ineligibility
8 or submit additional evidence.

9 (3) AMENDED APPLICATION.—An alien whose
10 application for certified agricultural worker status is
11 denied under this section may submit an amended
12 application for such status to the Secretary if the
13 amended application is submitted within the applica-
14 tion period described in subsection (c) and contains
15 all the required information and fees that were miss-
16 ing from the initial application.

17 (e) ALTERNATIVE H-2A STATUS.—An alien who has
18 not met the required period of agricultural labor or serv-
19 ices under subsection (a)(1)(A), but is otherwise eligible
20 for certified agricultural worker status under such sub-
21 section, shall be eligible for classification as a non-
22 immigrant described in section 101(a)(15)(H)(ii)(a) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1101(a)(15)(H)(ii)(a)) upon approval of a petition sub-
25 mitted by a sponsoring employer, if the alien has per-

1 formed at least 575 hours (or 100 work days) of agricul-
2 tural labor or services during the 3-year period preceding
3 the date of the introduction of this Act. The Secretary
4 shall create a procedure to provide for such classification
5 without requiring the alien to depart the United States
6 and obtain a visa abroad.

7 **SEC. 102. TERMS AND CONDITIONS OF CERTIFIED STATUS.**

8 (a) IN GENERAL.—

9 (1) APPROVAL.—Upon approval of an applica-
10 tion for certified agricultural worker status, or an
11 extension of such status pursuant to section 103, the
12 Secretary shall issue—

13 (A) documentary evidence of such status to
14 the applicant; and

15 (B) documentary evidence of certified agri-
16 cultural dependent status to any qualified de-
17 pendent included on such application.

18 (2) DOCUMENTARY EVIDENCE.—In addition to
19 any other features and information as the Secretary
20 may prescribe, the documentary evidence described
21 in paragraph (1)—

22 (A) shall be machine-readable and tamper-
23 resistant;

24 (B) shall contain a digitized photograph;

1 (C) shall serve as a valid travel and entry
2 document for purposes of applying for admis-
3 sion to the United States; and

4 (D) shall be accepted during the period of
5 its validity by an employer as evidence of em-
6 ployment authorization and identity under sec-
7 tion 274A(b)(1)(B) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1324a(b)(1)(B)).

9 (3) VALIDITY PERIOD.—Certified agricultural
10 worker and certified agricultural dependent status
11 shall be valid for 5½ years beginning on the date of
12 approval.

13 (4) TRAVEL AUTHORIZATION.—An alien with
14 certified agricultural worker or certified agricultural
15 dependent status may—

16 (A) travel within and outside of the United
17 States, including commuting to the United
18 States from a residence in a foreign country;
19 and

20 (B) be admitted to the United States upon
21 return from travel abroad without first obtain-
22 ing a visa if the alien is in possession of—

23 (i) valid, unexpired documentary evi-
24 dence of certified agricultural worker or

1 certified agricultural worker dependent sta-
2 tus as described in subsection (a); or

3 (ii) a travel document that has been
4 approved by the Secretary and was issued
5 to the alien after the alien's original docu-
6 mentary evidence was lost, stolen, or de-
7 stroyed.

8 (b) ABILITY TO CHANGE STATUS.—

9 (1) CHANGE TO CERTIFIED AGRICULTURAL
10 WORKER STATUS.—Notwithstanding section 101(a),
11 an alien with valid certified agricultural dependent
12 status may apply to change to certified agricultural
13 worker status, at any time, if the alien—

14 (A) submits a completed application, in-
15 cluding the required processing fees; and

16 (B) is not ineligible for certified agricul-
17 tural worker status under section 101(b).

18 (2) CLARIFICATION.—Nothing in this title pro-
19 hibits an alien granted certified agricultural worker
20 or certified agricultural dependent status from
21 changing status to any other nonimmigrant classi-
22 fication for which the alien may be eligible.

23 (c) PROHIBITION ON PUBLIC BENEFITS, TAX BENE-
24 FITS, AND HEALTH CARE SUBSIDIES.—Aliens granted
25 certified agricultural worker or certified agricultural de-

1 pendent status shall be considered lawfully present in the
2 United States for all purposes for the duration of their
3 status, except that such aliens—

4 (1) shall be ineligible for Federal means-tested
5 public benefits to the same extent as other individ-
6 uals who are not qualified aliens under section 431
7 of the Personal Responsibility and Work Oppor-
8 tunity Reconciliation Act of 1996 (8 U.S.C. 1641);

9 (2) are not entitled to the premium assistance
10 tax credit authorized under section 36B of the Inter-
11 nal Revenue Code of 1986 (26 U.S.C. 36B), and
12 shall be subject to the rules applicable to individuals
13 who are not lawfully present set forth in subsection
14 (e) of such section;

15 (3) shall be subject to the rules applicable to in-
16 dividuals who are not lawfully present set forth in
17 section 1402(e) of the Patient Protection and Af-
18 fordable Care Act (42 U.S.C. 18071(e)); and

19 (4) shall be subject to the rules applicable to in-
20 dividuals not lawfully present set forth in section
21 5000A(d)(3) of the Internal Revenue Code of 1986
22 (26 U.S.C. 5000A(d)(3)).

23 (d) REVOCATION OF STATUS.—

24 (1) IN GENERAL.—The Secretary may revoke
25 certified agricultural worker or certified agricultural

1 dependent status if, after providing notice to the
2 alien and the opportunity to provide evidence to con-
3 test the proposed revocation, the Secretary deter-
4 mines that the alien no longer meets the eligibility
5 requirements for such status under section 101(b).

6 (2) INVALIDATION OF DOCUMENTATION.—Upon
7 the Secretary’s final determination to revoke an
8 alien’s certified agricultural worker or certified agri-
9 cultural dependent status, any documentation issued
10 by the Secretary to such alien under subsection (a)
11 shall automatically be rendered invalid for any pur-
12 pose except for departure from the United States.

13 **SEC. 103. EXTENSIONS OF CERTIFIED STATUS.**

14 (a) REQUIREMENTS FOR EXTENSIONS OF STATUS.—

15 (1) PRINCIPAL ALIENS.—The Secretary may
16 extend certified agricultural worker status for addi-
17 tional periods of 5½ years to an alien who submits
18 a completed application, including the required proc-
19 essing fees, within the 120-day period beginning 60
20 days before the expiration of the fifth year of the
21 immediately preceding grant of certified agricultural
22 worker status, if the alien—

23 (A) except as provided in section 126(c),
24 has performed agricultural labor or services in
25 the United States for at least 575 hours (or

1 100 work days) for each of the prior 5 years in
2 which the alien held certified agricultural work-
3 er status; and

4 (B) has not become ineligible for certified
5 agricultural worker status under section 101(b).

6 (2) DEPENDENT SPOUSE AND CHILDREN.—The
7 Secretary may grant or extend certified agricultural
8 dependent status to the spouse or child of an alien
9 granted an extension of certified agricultural worker
10 status under paragraph (1) if the spouse or child is
11 not ineligible for certified agricultural dependent sta-
12 tus under section 101(b).

13 (3) WAIVER FOR LATE FILINGS.—The Sec-
14 retary may waive an alien's failure to timely file be-
15 fore the expiration of the 120-day period described
16 in paragraph (1) if the alien demonstrates that the
17 delay was due to extraordinary circumstances be-
18 yond the alien's control or for other good cause.

19 (b) STATUS FOR WORKERS WITH PENDING APPLICA-
20 TIONS.—

21 (1) IN GENERAL.—Certified agricultural worker
22 status of an alien who timely files an application to
23 extend such status under subsection (a) (and the
24 status of the alien's dependents) shall be automati-
25 cally extended through the date on which the Sec-

1 retary makes a final administrative decision regard-
2 ing such application.

3 (2) DOCUMENTATION OF EMPLOYMENT AU-
4 THORIZATION.—As soon as practicable after receipt
5 of an application to extend certified agricultural
6 worker status under subsection (a), the Secretary
7 shall issue a document to the alien acknowledging
8 the receipt of such application. An employer of the
9 worker may not refuse to accept such document as
10 evidence of employment authorization under section
11 274A(b)(1)(C) of the Immigration and Nationality
12 Act (8 U.S.C. 1324a(b)(1)(C)), pending a final ad-
13 ministrative decision on the application.

14 (c) NOTICE.—Prior to denying an application to ex-
15 tend certified agricultural worker status, the Secretary
16 shall provide the alien with—

17 (1) written notice that describes the basis for
18 ineligibility or the deficiencies of the evidence sub-
19 mitted; and

20 (2) at least 90 days to contest ineligibility or
21 submit additional evidence.

22 **SEC. 104. DETERMINATION OF CONTINUOUS PRESENCE.**

23 (a) EFFECT OF NOTICE TO APPEAR.—The contin-
24 uous presence in the United States of an applicant for cer-
25 tified agricultural worker status under section 101 shall

1 not terminate when the alien is served a notice to appear
2 under section 239(a) of the Immigration and Nationality
3 Act (8 U.S.C. 1229(a)).

4 (b) TREATMENT OF CERTAIN BREAKS IN PRES-
5 ENCE.—

6 (1) IN GENERAL.—Except as provided in para-
7 graphs (2) and (3), an alien shall be considered to
8 have failed to maintain continuous presence in the
9 United States under this subtitle if the alien de-
10 parted the United States for any period exceeding
11 90 days, or for any periods, in the aggregate, ex-
12 ceeding 180 days.

13 (2) EXTENSIONS FOR EXTENUATING CIR-
14 CUMSTANCES.—The Secretary may extend the time
15 periods described in paragraph (1) for an alien who
16 demonstrates that the failure to timely return to the
17 United States was due to extenuating circumstances
18 beyond the alien's control, including the serious ill-
19 ness of the alien, or death or serious illness of a
20 spouse, parent, son or daughter, grandparent, or sib-
21 ling of the alien.

22 (3) TRAVEL AUTHORIZED BY THE SEC-
23 RETARY.—Any period of travel outside of the United
24 States by an alien that was authorized by the Sec-
25 retary shall not be counted toward any period of de-

1 parture from the United States under paragraph
2 (1).

3 **SEC. 105. EMPLOYER OBLIGATIONS.**

4 (a) **RECORD OF EMPLOYMENT.**—An employer of an
5 alien in certified agricultural worker status shall provide
6 such alien with a written record of employment each year
7 during which the alien provides agricultural labor or serv-
8 ices to such employer as a certified agricultural worker.

9 (b) **CIVIL PENALTIES.**—

10 (1) **IN GENERAL.**—If the Secretary determines,
11 after notice and an opportunity for a hearing, that
12 an employer of an alien with certified agricultural
13 worker status has knowingly failed to provide the
14 record of employment required under subsection (a),
15 or has provided a false statement of material fact in
16 such a record, the employer shall be subject to a civil
17 penalty in an amount not to exceed \$500 per viola-
18 tion.

19 (2) **LIMITATION.**—The penalty under paragraph
20 (1) for failure to provide employment records shall
21 not apply unless the alien has provided the employer
22 with evidence of employment authorization described
23 in section 102 or 103.

24 (3) **DEPOSIT OF CIVIL PENALTIES.**—Civil pen-
25 alties collected under this paragraph shall be depos-

1 ited into the Immigration Examinations Fee Ac-
2 count under section 286(m) of the Immigration and
3 Nationality Act (8 U.S.C. 1356(m)).

4 **SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.**

5 (a) ADMINISTRATIVE REVIEW.—The Secretary shall
6 establish a process by which an applicant may seek admin-
7 istrative review of a denial of an application for certified
8 agricultural worker status under this subtitle, an applica-
9 tion to extend such status, or a revocation of such status.

10 (b) ADMISSIBILITY IN IMMIGRATION COURT.—Each
11 record of an alien’s application for certified agricultural
12 worker status under this subtitle, application to extend
13 such status, revocation of such status, and each record
14 created pursuant to the administrative review process
15 under subsection (a) is admissible in immigration court,
16 and shall be included in the administrative record.

17 (c) JUDICIAL REVIEW.—Notwithstanding any other
18 provision of law, judicial review of the Secretary’s decision
19 to deny an application for certified agricultural worker
20 status, an application to extend such status, or the deci-
21 sion to revoke such status, shall be limited to the review
22 of an order of removal under section 242 of the Immigra-
23 tion and Nationality Act (8 U.S.C. 1252).

1 **Subtitle B—Optional Earned**
2 **Residence for Long-Term Workers**

3 **SEC. 111. OPTIONAL ADJUSTMENT OF STATUS FOR LONG-**
4 **TERM AGRICULTURAL WORKERS.**

5 (a) REQUIREMENTS FOR ADJUSTMENT OF STA-
6 TUS.—

7 (1) PRINCIPAL ALIENS.—The Secretary may
8 adjust the status of an alien from that of a certified
9 agricultural worker to that of a lawful permanent
10 resident if the alien submits a completed application,
11 including the required processing and penalty fees,
12 and the Secretary determines that—

13 (A) except as provided in section 126(e),
14 the alien performed agricultural labor or serv-
15 ices for not less than 575 hours (or 100 work
16 days) each year—

17 (i) for at least 10 years prior to the
18 date of the enactment of this Act and for
19 at least 4 years in certified agricultural
20 worker status; or

21 (ii) for fewer than 10 years prior to
22 the date of the enactment of this Act and
23 for at least 8 years in certified agricultural
24 worker status; and

1 (B) the alien has not become ineligible for
2 certified agricultural worker status under sec-
3 tion 101(b).

4 (2) DEPENDENT ALIENS.—

5 (A) IN GENERAL.—The spouse and each
6 child of an alien described in paragraph (1)
7 whose status has been adjusted to that of a
8 lawful permanent resident may be granted law-
9 ful permanent residence under this subtitle if—

10 (i) the qualifying relationship to the
11 principal alien existed on the date on which
12 such alien was granted adjustment of sta-
13 tus under this subtitle; and

14 (ii) the spouse or child is not ineligible
15 for certified agricultural worker dependent
16 status under section 101(b).

17 (B) PROTECTIONS FOR SPOUSES AND
18 CHILDREN.—The Secretary of Homeland Secu-
19 rity shall establish procedures to allow the
20 spouse or child of a certified agricultural work-
21 er to self-petition for lawful permanent resi-
22 dence under this subtitle in cases involving—

23 (i) the death of the certified agricul-
24 tural worker, so long as the spouse or child

1 submits a petition not later than 2 years
2 after the date of the worker's death; or

3 (ii) the spouse or a child being bat-
4 tered or subjected to extreme cruelty by
5 the certified agricultural worker.

6 (3) DOCUMENTATION OF WORK HISTORY.—An
7 applicant for adjustment of status under this section
8 shall not be required to resubmit evidence of work
9 history that has been previously submitted to the
10 Secretary in connection with an approved extension
11 of certified agricultural worker status.

12 (b) PENALTY FEE.—In addition to any processing
13 fee that the Secretary may assess in accordance with sec-
14 tion 122(b), a principal alien seeking adjustment of status
15 under this subtitle shall pay a \$1,000 penalty fee, which
16 shall be deposited into the Immigration Examinations Fee
17 Account pursuant to section 286(m) of the Immigration
18 and Nationality Act (8 U.S.C. 1356(m)).

19 (c) EFFECT OF PENDING APPLICATION.—During the
20 period beginning on the date on which an alien applies
21 for adjustment of status under this subtitle, and ending
22 on the date on which the Secretary makes a final adminis-
23 trative decision regarding such application, the alien and
24 any dependents included on the application—

1 (1) may apply for advance parole, which shall
2 be granted upon demonstrating a legitimate need to
3 travel outside the United States for a temporary
4 purpose;

5 (2) may not be detained by the Secretary or re-
6 moved from the United States unless the Secretary
7 makes a prima facie determination that such alien
8 is, or has become, ineligible for adjustment of status
9 under subsection (a);

10 (3) may not be considered unlawfully present
11 under section 212(a)(9)(B) of the Immigration and
12 Nationality Act (8 U.S.C. 1182(a)(9)(B)); and

13 (4) may not be considered an unauthorized
14 alien (as defined in section 274A(h)(3) of the Immi-
15 gration and Nationality Act (8 U.S.C.
16 1324a(h)(3))).

17 (d) EVIDENCE OF APPLICATION FILING.—As soon as
18 practicable after receiving an application for adjustment
19 of status under this subtitle, the Secretary shall provide
20 the applicant with a document acknowledging the receipt
21 of such application. Such document shall serve as interim
22 proof of the alien's authorization to accept employment
23 in the United States and shall be accepted by an employer
24 as evidence of employment authorization under section
25 274A(b)(1)(C) of the Immigration and Nationality Act (8

1 U.S.C. 1324a(b)(1)(C)), pending a final administrative
2 decision on the application.

3 (e) **WITHDRAWAL OF APPLICATION.**—The Secretary
4 shall, upon receipt of a request to withdraw an application
5 for adjustment of status under this subtitle, cease pro-
6 cessing of the application, and close the case. Withdrawal
7 of the application shall not prejudice any future applica-
8 tion filed by the applicant for any immigration benefit
9 under this Act or under the Immigration and Nationality
10 Act (8 U.S.C. 1101 et seq.).

11 **SEC. 112. PAYMENT OF TAXES.**

12 (a) **IN GENERAL.**—An alien may not be granted ad-
13 justment of status under this subtitle unless the applicant
14 has satisfied any applicable Federal tax liability.

15 (b) **COMPLIANCE.**—An alien may demonstrate com-
16 pliance with subsection (a) by submitting such documenta-
17 tion as the Secretary, in consultation with the Secretary
18 of the Treasury, may require by regulation.

19 **SEC. 113. ADJUDICATION AND DECISION; REVIEW.**

20 (a) **IN GENERAL.**—Subject to the requirements of
21 section 123, the Secretary shall render a decision on an
22 application for adjustment of status under this subtitle not
23 later than 180 days after the date on which the application
24 is filed.

1 (b) NOTICE.—Prior to denying an application for ad-
2 justment of status under this subtitle, the Secretary shall
3 provide the alien with—

4 (1) written notice that describes the basis for
5 ineligibility or the deficiencies of the evidence sub-
6 mitted; and

7 (2) at least 90 days to contest ineligibility or
8 submit additional evidence.

9 (c) ADMINISTRATIVE REVIEW.—The Secretary shall
10 establish a process by which an applicant may seek admin-
11 istrative review of a denial of an application for adjust-
12 ment of status under this subtitle.

13 (d) JUDICIAL REVIEW.—Notwithstanding any other
14 provision of law, an alien may seek judicial review of a
15 denial of an application for adjustment of status under
16 this title in an appropriate United States district court.

17 **Subtitle C—General Provisions**

18 **SEC. 121. DEFINITIONS.**

19 In this title:

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided, any term used in this title that is used in the
22 immigration laws shall have the meaning given such
23 term in the immigration laws (as such term is de-
24 fined in section 101 of the Immigration and Nation-
25 ality Act (8 U.S.C. 1101)).

1 (2) AGRICULTURAL LABOR OR SERVICES.—The
2 term “agricultural labor or services” has the mean-
3 ing given such term in section 101(a)(53) of the Im-
4 migration and Nationality Act (8 U.S.C.
5 1101(a)(53).

6 (3) APPLICABLE FEDERAL TAX LIABILITY.—
7 The term “applicable Federal tax liability” means all
8 Federal income taxes assessed in accordance with
9 section 6203 of the Internal Revenue Code of 1986
10 beginning on the date on which the applicant was
11 authorized to work in the United States as a cer-
12 tified agricultural worker.

13 (4) APPROPRIATE UNITED STATES DISTRICT
14 COURT.—The term “appropriate United States dis-
15 trict court” means the United States District Court
16 for the District of Columbia or the United States
17 district court with jurisdiction over the alien’s prin-
18 cipal place of residence.

19 (5) CHILD.—The term “child” has the meaning
20 given such term in section 101(b)(1) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1101(b)(1)).

22 (6) CONVICTED OR CONVICTION.—The term
23 “convicted” or “conviction” does not include a judg-
24 ment that has been expunged or set aside, that re-

1 sulted in a rehabilitative disposition, or the equiva-
2 lent.

3 (7) EMPLOYER.—The term “employer” means
4 any person or entity, including any labor contractor
5 or any agricultural association, that employs workers
6 in agricultural labor or services.

7 (8) QUALIFIED DESIGNATED ENTITY.—The
8 term “qualified designated entity” means—

9 (A) a qualified farm labor organization or
10 an association of employers designated by the
11 Secretary; or

12 (B) any other entity that the Secretary
13 designates as having substantial experience,
14 demonstrated competence, and a history of
15 long-term involvement in the preparation and
16 submission of application for adjustment of sta-
17 tus under title II of the Immigration and Na-
18 tionality Act (8 U.S.C. 1151 et seq.).

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

21 (10) WORK DAY.—The term “work day” means
22 any day in which the individual is employed 5.75 or
23 more hours in agricultural labor or services.

1 **SEC. 122. RULEMAKING; FEES.**

2 (a) **RULEMAKING.**—Not later than 180 days after the
3 date of the enactment of this Act, the Secretary shall pub-
4 lish in the Federal Register, an interim final rule imple-
5 menting this title. Notwithstanding section 553 of title 5,
6 United States Code, the rule shall be effective, on an in-
7 terim basis, immediately upon publication, but may be
8 subject to change and revision after public notice and op-
9 portunity for comment. The Secretary shall finalize such
10 rule not later than 1 year after the date of the enactment
11 of this Act.

12 (b) **FEES.**—

13 (1) **IN GENERAL.**—The Secretary may require
14 an alien applying for any benefit under this title to
15 pay a reasonable fee that is commensurate with the
16 cost of processing the application.

17 (2) **FEE WAIVER; INSTALLMENTS.**—

18 (A) **IN GENERAL.**—The Secretary shall es-
19 tablish procedures to allow an alien to—

20 (i) request a waiver of any fee that
21 the Secretary may assess under this title if
22 the alien demonstrates to the satisfaction
23 of the Secretary that the alien is unable to
24 pay the prescribed fee; or

1 (ii) pay any fee or penalty that the
2 Secretary may assess under this title in in-
3 stallments.

4 (B) CLARIFICATION.—Nothing in this sec-
5 tion shall be read to prohibit an employer from
6 paying any fee or penalty that the Secretary
7 may assess under this title on behalf of an alien
8 and the alien’s spouse or children.

9 **SEC. 123. BACKGROUND CHECKS.**

10 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
11 DATA.—The Secretary may not grant or extend certified
12 agricultural worker or certified agricultural dependent sta-
13 tus under subtitle A, or grant adjustment of status to that
14 of a lawful permanent resident under subtitle B, unless
15 the alien submits biometric and biographic data, in accord-
16 ance with procedures established by the Secretary. The
17 Secretary shall provide an alternative procedure for aliens
18 who cannot provide all required biometric or biographic
19 data because of a physical impairment.

20 (b) BACKGROUND CHECKS.—The Secretary shall use
21 biometric, biographic, and other data that the Secretary
22 determines appropriate to conduct security and law en-
23 forcement background checks and to determine whether
24 there is any criminal, national security, or other factor
25 that would render the alien ineligible for status under this

1 title. An alien may not be granted any such status under
2 this title unless security and law enforcement background
3 checks are completed to the satisfaction of the Secretary.

4 **SEC. 124. PROTECTION FOR CHILDREN.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), for purposes of eligibility for certified agricultural de-
7 pendent status or lawful permanent resident status under
8 this title, a determination of whether an alien is a child
9 shall be made using the age of the alien on the date on
10 which the initial application for certified agricultural
11 worker status is filed with the Secretary of Homeland Se-
12 curity.

13 (b) LIMITATION.—Subsection (a) shall apply for no
14 more than 10 years after the date on which the initial
15 application for certified agricultural worker status is filed
16 with the Secretary of Homeland Security.

17 **SEC. 125. LIMITATION ON REMOVAL.**

18 (a) IN GENERAL.—An alien who appears to be prima
19 facie eligible for status under this title shall be given a
20 reasonable opportunity to apply for such status. Such an
21 alien may not be placed in removal proceedings or removed
22 from the United States until a final administrative deci-
23 sion establishing ineligibility for such status is rendered.

24 (b) ALIENS IN REMOVAL PROCEEDINGS.—Notwith-
25 standing any other provision of the law, the Attorney Gen-

1 eral shall (upon motion by the Secretary with the consent
2 of the alien, or motion by the alien) terminate removal
3 proceedings, without prejudice, against an alien who ap-
4 pears to be prima facie eligible for status under this title,
5 and provide such alien a reasonable opportunity to apply
6 for such status.

7 (c) EFFECT OF FINAL ORDER.—An alien present in
8 the United States who has been ordered removed or has
9 been permitted to depart voluntarily from the United
10 States may, notwithstanding such order or permission to
11 depart, apply for status under this title. Such alien shall
12 not be required to file a separate motion to reopen, recon-
13 sider, or vacate the order of removal. If the Secretary ap-
14 proves the application, the Secretary shall notify the At-
15 torney General of such approval, and the Attorney General
16 shall cancel the order of removal. If the Secretary renders
17 a final administrative decision to deny the application, the
18 order of removal or permission to depart shall be effective
19 and enforceable to the same extent as if the application
20 had not been made, only after all available administrative
21 and judicial remedies have been exhausted.

22 (d) EFFECT OF DEPARTURE.—Section 101(g) of the
23 Immigration and Nationality Act (8 U.S.C. 1101(g)) shall
24 not apply to an alien who departs the United States—

1 (1) with advance permission to return to the
2 United States granted by the Secretary under this
3 title; or

4 (2) after having been granted certified agricul-
5 tural worker status or lawful permanent resident
6 status under this title.

7 **SEC. 126. DOCUMENTATION OF AGRICULTURAL WORK HIS-**
8 **TORY.**

9 (a) **BURDEN OF PROOF.**—An alien applying for cer-
10 tified agricultural worker status under subtitle A or ad-
11 justment of status under subtitle B has the burden of
12 proving by a preponderance of the evidence that the alien
13 has worked the requisite number of hours or days required
14 under section 101, 103, or 111, as applicable. The Sec-
15 retary shall establish special procedures to properly credit
16 work in cases in which an alien was employed under an
17 assumed name.

18 (b) **EVIDENCE.**—An alien may meet the burden of
19 proof under subsection (a) by producing sufficient evi-
20 dence to show the extent of such employment as a matter
21 of just and reasonable inference. Such evidence may in-
22 clude—

23 (1) an annual record of certified agricultural
24 worker employment as described in section 105(a),
25 or other employment records from employers;

- 1 (2) employment records maintained by collective
2 bargaining associations;
- 3 (3) tax records or other government records;
- 4 (4) sworn affidavits from individuals who have
5 direct knowledge of the alien's work history; or
- 6 (5) any other documentation designated by the
7 Secretary for such purpose.

8 (c) EXCEPTIONS FOR EXTRAORDINARY CIR-
9 CUMSTANCES.—

10 (1) IMPACT OF COVID-19.—

11 (A) IN GENERAL.—The Secretary may
12 grant certified agricultural worker status to an
13 alien who is otherwise eligible for such status if
14 such alien is able to only partially satisfy the
15 requirement under section 101(a)(1)(A) as a re-
16 sult of reduced hours of employment or other
17 restrictions associated with the public health
18 emergency declared by the Secretary of Health
19 and Human Services under section 319 of the
20 Public Health Service Act (42 U.S.C. 247d)
21 with respect to COVID-19.

22 (B) LIMITATION.—The exception described
23 in subparagraph (A) shall apply only to agricul-
24 tural labor or services required to be performed
25 during the period that—

1 (i) begins on the first day of the pub-
2 lic health emergency described in subpara-
3 graph (A); and

4 (ii) ends 90 days after the date on
5 which such public health emergency termi-
6 nates.

7 (2) EXTRAORDINARY CIRCUMSTANCES.—In de-
8 termining whether an alien has met the requirement
9 under section 103(a)(1)(A) or 111(a)(1)(A), the Sec-
10 retary may credit the alien with not more than 575
11 hours (or 100 work days) of agricultural labor or
12 services in the United States if the alien was unable
13 to perform the required agricultural labor or services
14 due to—

15 (A) pregnancy, parental leave, illness, dis-
16 ease, disabling injury, or physical limitation of
17 the alien;

18 (B) injury, illness, disease, or other special
19 needs of the alien's child or spouse;

20 (C) severe weather conditions that pre-
21 vented the alien from engaging in agricultural
22 labor or services;

23 (D) reduced hours of employment or other
24 restrictions associated with the public health
25 emergency declared by the Secretary of Health

1 and Human Services under section 319 of the
2 Public Health Service Act (42 U.S.C. 247d)
3 with respect to COVID–19; or

4 (E) termination from agricultural employ-
5 ment, if the Secretary determines that—

6 (i) the termination was without just
7 cause; and

8 (ii) the alien was unable to find alter-
9 native agricultural employment after a rea-
10 sonable job search.

11 (3) EFFECT OF DETERMINATION.—A deter-
12 mination under paragraph (1)(E) shall not be con-
13 clusive, binding, or admissible in a separate or sub-
14 sequent judicial or administrative action or pro-
15 ceeding between the alien and a current or prior em-
16 ployer of the alien or any other party.

17 (4) HARDSHIP WAIVER.—

18 (A) IN GENERAL.—As part of the rule-
19 making described in section 122(a), the Sec-
20 retary shall establish procedures allowing for a
21 partial waiver of the requirement under section
22 111(a)(1)(A) for a certified agricultural worker
23 if such worker—

1 (i) has continuously maintained cer-
2 tified agricultural worker status since the
3 date such status was initially granted;

4 (ii) has partially completed the re-
5 quirement under section 111(a)(1)(A); and

6 (iii) is no longer able to engage in ag-
7 ricultural labor or services safely and effec-
8 tively because of—

9 (I) a permanent disability suf-
10 fered while engaging in agricultural
11 labor or services; or

12 (II) deteriorating health or phys-
13 ical ability combined with advanced
14 age.

15 (B) DISABILITY.—In establishing the pro-
16 cedures described in subparagraph (A), the Sec-
17 retary shall consult with the Secretary of
18 Health and Human Services and the Commis-
19 sioner of Social Security to define “permanent
20 disability” for purposes of a waiver under sub-
21 paragraph (A)(iii)(I).

22 **SEC. 127. EMPLOYER PROTECTIONS.**

23 (a) CONTINUING EMPLOYMENT.—An employer that
24 continues to employ an alien knowing that the alien in-
25 tends to apply for certified agricultural worker status

1 under subtitle A shall not violate section 274A(a)(2) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1324a(a)(2)) by continuing to employ the alien for the du-
4 ration of the application period under section 101(c), and
5 with respect to an alien who applies for certified agricul-
6 tural status, for the duration of the period during which
7 the alien's application is pending final determination.

8 (b) USE OF EMPLOYMENT RECORDS.—Copies of em-
9 ployment records or other evidence of employment pro-
10 vided by an alien or by an alien's employer in support of
11 an alien's application for certified agricultural worker or
12 adjustment of status under this title may not be used in
13 a civil or criminal prosecution or investigation of that em-
14 ployer under section 274A of the Immigration and Nation-
15 ality Act (8 U.S.C. 1324a) or the Internal Revenue Code
16 of 1986 for the prior unlawful employment of that alien
17 regardless of the outcome of such application.

18 (c) ADDITIONAL PROTECTIONS.—Employers that
19 provide unauthorized aliens with copies of employment
20 records or other evidence of employment in support of an
21 application for certified agricultural worker status or ad-
22 justment of status under this title shall not be subject to
23 civil and criminal liability pursuant to such section 274A
24 for employing such unauthorized aliens. Records or other
25 evidence of employment provided by employers in response

1 to a request for such records for the purpose of estab-
2 lishing eligibility for status under this title may not be
3 used for any purpose other than establishing such eligi-
4 bility.

5 (d) LIMITATION ON PROTECTION.—The protections
6 for employers under this section shall not apply if the em-
7 ployer provides employment records to the alien that are
8 determined to be fraudulent.

9 **SEC. 128. CORRECTION OF SOCIAL SECURITY RECORDS;**
10 **CONFORMING AMENDMENTS.**

11 (a) IN GENERAL.—Section 208(e)(1) of the Social
12 Security Act (42 U.S.C. 408(e)(1)) is amended—

13 (1) in subparagraph (B)(ii), by striking “or” at
14 the end;

15 (2) in subparagraph (C), by inserting “or” at
16 the end;

17 (3) by inserting after subparagraph (C) the fol-
18 lowing:

19 “(D) who is granted certified agricultural work-
20 er status, certified agricultural dependent status, or
21 lawful permanent resident status under title I of the
22 American Agriculture Dominance Act,”; and

23 (4) in the undesignated matter following sub-
24 paragraph (D), as added by paragraph (3), by strik-
25 ing “1990.” and inserting “1990, or in the case of

1 an alien described in subparagraph (D), if such con-
2 duct is alleged to have occurred before the date on
3 which the alien was granted status under title I of
4 the American Agriculture Dominance Act.”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 subsection (a) shall take effect on the first day of the sev-
7 enth month that begins after the date of the enactment
8 of this Act.

9 (c) CONFORMING AMENDMENTS.—

10 (1) SOCIAL SECURITY ACT.—Section 210(a)(1)
11 of the Social Security Act (42 U.S.C. 410(a)(1)) is
12 amended by inserting before the semicolon the fol-
13 lowing: “(other than aliens granted certified agricul-
14 tural worker status or certified agricultural depend-
15 ent status under title I of the American Agriculture
16 Dominance Act”.

17 (2) INTERNAL REVENUE CODE OF 1986.—Sec-
18 tion 3121(b)(1) of the Internal Revenue Code of
19 1986 is amended by inserting before the semicolon
20 the following: “(other than aliens granted certified
21 agricultural worker status or certified agricultural
22 dependent status under title I of the American Agri-
23 culture Dominance Act”.

24 (3) EFFECTIVE DATE.—The amendments made
25 by this subsection shall apply with respect to service

1 performed after the date of the enactment of this
2 Act.

3 (d) AUTOMATED SYSTEM TO ASSIGN SOCIAL SECU-
4 RITY ACCOUNT NUMBERS.—Section 205(c)(2)(B) of the
5 Social Security Act (42 U.S.C. 405(c)(2)(B)) is amended
6 by adding at the end the following:

7 “(iv) The Commissioner of Social Se-
8 curity shall, to the extent practicable, co-
9 ordinate with the Secretary of the Depart-
10 ment of Homeland Security to implement
11 an automated system for the Commissioner
12 to assign social security account numbers
13 to aliens granted certified agricultural
14 worker status or certified agricultural de-
15 pendent status under title I of the Amer-
16 ican Agriculture Dominance Act. An alien
17 who is granted such status, and who was
18 not previously assigned a social security
19 account number, shall request assignment
20 of a social security account number and a
21 social security card from the Commissioner
22 through such system. The Secretary shall
23 collect and provide to the Commissioner
24 such information as the Commissioner
25 deems necessary for the Commissioner to

1 assign a social security account number,
2 which information may be used by the
3 Commissioner for any purpose for which
4 the Commissioner is otherwise authorized
5 under Federal law. The Commissioner may
6 maintain, use, and disclose such informa-
7 tion only as permitted by the Privacy Act
8 and other Federal law.”.

9 **SEC. 129. DISCLOSURES AND PRIVACY.**

10 (a) IN GENERAL.—The Secretary may not disclose
11 or use information provided in an application for certified
12 agricultural worker status or adjustment of status under
13 this title (including information provided during adminis-
14 trative or judicial review) for the purpose of immigration
15 enforcement.

16 (b) REFERRALS PROHIBITED.—The Secretary, based
17 solely on information provided in an application for cer-
18 tified agricultural worker status or adjustment of status
19 under this title (including information provided during ad-
20 ministrative or judicial review), may not refer an applicant
21 to U.S. Immigration and Customs Enforcement, U.S. Cus-
22 toms and Border Protection, or any designee of either
23 such entity.

24 (c) EXCEPTIONS.—Notwithstanding subsections (a)
25 and (b), information provided in an application for cer-

1 tified agricultural worker status or adjustment of status
2 under this title may be shared with Federal security and
3 law enforcement agencies—

4 (1) for assistance in the consideration of an ap-
5 plication under this title;

6 (2) to identify or prevent fraudulent claims or
7 schemes;

8 (3) for national security purposes; or

9 (4) for the investigation or prosecution of any
10 felony not related to immigration status.

11 (d) PENALTY.—Any person who knowingly uses, pub-
12 lishes, or permits information to be examined in violation
13 of this section shall be fined not more than \$10,000.

14 (e) PRIVACY.—The Secretary shall ensure that ap-
15 propriate administrative and physical safeguards are in
16 place to protect the security, confidentiality, and integrity
17 of personally identifiable information collected, main-
18 tained, and disseminated pursuant to this title.

19 **SEC. 130. PENALTIES FOR FALSE STATEMENTS IN APPLICA-**
20 **TIONS.**

21 (a) CRIMINAL PENALTY.—Any person who—

22 (1) files an application for certified agricultural
23 worker status or adjustment of status under this
24 title and knowingly falsifies, conceals, or covers up
25 a material fact or makes any false, fictitious, or

1 fraudulent statements or representations, or makes
2 or uses any false writing or document knowing the
3 same to contain any false, fictitious, or fraudulent
4 statement or entry; or

5 (2) creates or supplies a false writing or docu-
6 ment for use in making such an application,

7 shall be fined in accordance with title 18, United States
8 Code, imprisoned not more than 5 years, or both.

9 (b) INADMISSIBILITY.—An alien who is convicted
10 under subsection (a) shall be deemed inadmissible to the
11 United States under section 212(a)(6)(C)(i) of the Immi-
12 gration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

13 (c) DEPOSIT.—Fines collected under subsection (a)
14 shall be deposited into the Immigration Examinations Fee
15 Account pursuant to section 286(m) of the Immigration
16 and Nationality Act (8 U.S.C. 1356(m)).

17 **SEC. 131. DISSEMINATION OF INFORMATION.**

18 (a) IN GENERAL.—Beginning not later than the first
19 day of the application period described in section 101(c)—

20 (1) the Secretary of Homeland Security, in co-
21 operation with qualified designated entities, shall
22 broadly disseminate information described in sub-
23 section (b); and

24 (2) the Secretary of Agriculture, in consultation
25 with the Secretary of Homeland Security, shall dis-

1 seminate to agricultural employers a document con-
2 taining the information described in subsection (b)
3 for posting at employer worksites.

4 (b) INFORMATION DESCRIBED.—The information de-
5 scribed in this subsection shall include—

6 (1) the benefits that aliens may receive under
7 this title; and

8 (2) the requirements that an alien must meet to
9 receive such benefits.

10 **SEC. 132. EXEMPTION FROM NUMERICAL LIMITATIONS.**

11 The numerical limitations under title II of the Immi-
12 gration and Nationality Act (8 U.S.C. 1151 et seq.) shall
13 not apply to the adjustment of aliens to lawful permanent
14 resident status under this title, and such aliens shall not
15 be counted toward any such numerical limitation.

16 **SEC. 133. REPORTS TO CONGRESS.**

17 Not later than 180 days after the publication of the
18 final rule under section 122(a), and annually thereafter
19 for the following 10 years, the Secretary shall submit a
20 report to Congress that identifies, for the previous fiscal
21 year—

22 (1) the number of principal aliens who applied
23 for certified agricultural worker status under subtitle
24 A, and the number of dependent spouses and chil-
25 dren included in such applications;

1 (2) the number of principal aliens who were
2 granted certified agricultural worker status under
3 subtitle A, and the number of dependent spouses
4 and children who were granted certified agricultural
5 dependent status;

6 (3) the number of principal aliens who applied
7 for an extension of their certified agricultural worker
8 status under subtitle A, and the number of depend-
9 ent spouses and children included in such applica-
10 tions;

11 (4) the number of principal aliens who were
12 granted an extension of certified agricultural worker
13 status under subtitle A, and the number of depend-
14 ent spouses and children who were granted certified
15 agricultural dependent status under such an exten-
16 sion;

17 (5) the number of principal aliens who applied
18 for adjustment of status under subtitle B, and the
19 number of dependent spouses and children included
20 in such applications;

21 (6) the number of principal aliens who were
22 granted lawful permanent resident status under sub-
23 title B, and the number of spouses and children who
24 were granted such status as dependents;

1 (7) the number of principal aliens included in
2 petitions described in section 101(e), and the num-
3 ber of dependent spouses and children included in
4 such applications; and

5 (8) the number of principal aliens who were
6 granted H-2A status pursuant to petitions described
7 in section 101(e), and the number of dependent
8 spouses and children who were granted H-4 status.

9 **SEC. 134. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
10 **CANTS.**

11 (a) **ESTABLISHMENT.**—The Secretary shall establish
12 a program to award grants, on a competitive basis, to eli-
13 gible nonprofit organizations to assist eligible applicants
14 under this title by providing them with the services de-
15 scribed in subsection (c).

16 (b) **ELIGIBLE NONPROFIT ORGANIZATION.**—For
17 purposes of this section, the term “eligible nonprofit orga-
18 nization” means an organization described in section
19 501(c)(3) of the Internal Revenue Code of 1986 (exclud-
20 ing a recipient of funds under title X of the Economic
21 Opportunity Act of 1964 (42 U.S.C. 2996 et seq.)) that
22 has demonstrated qualifications, experience, and expertise
23 in providing quality services to farm workers or aliens.

1 (c) USE OF FUNDS.—Grant funds awarded under
2 this section may be used for the design and implementa-
3 tion of programs that provide—

4 (1) information to the public regarding the eli-
5 gibility and benefits of certified agricultural worker
6 status authorized under this title; and

7 (2) assistance, within the scope of authorized
8 practice of immigration law, to individuals submit-
9 ting applications for certified agricultural worker
10 status or adjustment of status under this title, in-
11 cluding—

12 (A) screening prospective applicants to as-
13 sess their eligibility for such status;

14 (B) completing applications, including pro-
15 viding assistance in obtaining necessary docu-
16 ments and supporting evidence; and

17 (C) providing any other assistance that the
18 Secretary determines useful to assist aliens in
19 applying for certified agricultural worker status
20 or adjustment of status under this title.

21 (d) SOURCE OF FUNDS.—In addition to any funds
22 appropriated to carry out this section, the Secretary may
23 use up to \$10,000,000 from the Immigration Examina-
24 tions Fee Account under section 286(m) of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1356(m)) to carry out
2 this section.

3 (e) ELIGIBILITY FOR SERVICES.—Section 504(a)(11)
4 of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall
5 not be construed to prevent a recipient of funds under title
6 X of the Economic Opportunity Act of 1964 (42 U.S.C.
7 2996 et seq.) from providing legal assistance directly re-
8 lated to an application for status under this title or to
9 an alien granted such status.

10 **SEC. 135. AUTHORIZATION OF APPROPRIATIONS.**

11 There is authorized to be appropriated to the Sec-
12 retary, such sums as may be necessary to implement this
13 title, including any amounts needed for costs associated
14 with the initiation of such implementation, for each of fis-
15 cal years 2022 through 2024.

16 **TITLE II—ENSURING AN AGRICULTURAL WORKFORCE FOR**
17 **CULTURAL WORKFORCE FOR**
18 **THE FUTURE**

19 **Subtitle A—Reforming the H-2A**
20 **Worker Program**

21 **SEC. 201. COMPREHENSIVE AND STREAMLINED ELEC-**
22 **TRONIC H-2A PLATFORM.**

23 (a) STREAMLINED H-2A PLATFORM.—

24 (1) IN GENERAL.—Not later than 12 months
25 after the date of the enactment of this Act, the Sec-

1 retary of Homeland Security, in consultation with
2 the Secretary of Labor, the Secretary of Agriculture,
3 the Secretary of State, and United States Digital
4 Service, shall ensure the establishment of an elec-
5 tronic platform through which a petition for an H-
6 2A worker may be filed. Such platform shall—

7 (A) serve as a single point of access for an
8 employer to input all information and sup-
9 porting documentation required for obtaining
10 labor certification from the Secretary of Labor
11 and the adjudication of the H-2A petition by
12 the Secretary of Homeland Security;

13 (B) serve as a single point of access for the
14 Secretary of Homeland Security, the Secretary
15 of Labor, and State workforce agencies to con-
16 currently perform their respective review and
17 adjudicatory responsibilities in the H-2A proc-
18 ess;

19 (C) facilitate communication between em-
20 ployers and agency adjudicators, including by
21 allowing employers to—

22 (i) receive and respond to notices of
23 deficiency and requests for information;

24 (ii) submit requests for inspections
25 and licensing;

1 (iii) receive notices of approval and
2 denial; and

3 (iv) request reconsideration or appeal
4 of agency decisions; and

5 (D) provide information to the Secretary of
6 State and U.S. Customs and Border Protection
7 necessary for the efficient and secure processing
8 of H-2A visas and applications for admission.

9 (2) OBJECTIVES.—In developing the platform
10 described in paragraph (1), the Secretary of Home-
11 land Security, in consultation with the Secretary of
12 Labor, the Secretary of Agriculture, the Secretary of
13 State, and United States Digital Service, shall
14 streamline and improve the H-2A process, including
15 by—

16 (A) eliminating the need for employers to
17 submit duplicate information and documenta-
18 tion to multiple agencies;

19 (B) eliminating redundant processes, where
20 a single matter in a petition is adjudicated by
21 more than one agency;

22 (C) reducing the occurrence of common pe-
23 tition errors, and otherwise improving and expe-
24 diting the processing of H-2A petitions; and

1 (D) ensuring compliance with H–2A pro-
2 gram requirements and the protection of the
3 wages and working conditions of workers.

4 (b) ONLINE JOB REGISTRY.—The Secretary of Labor
5 shall maintain a national, publicly-accessible online job
6 registry and database of all job orders submitted by H–
7 2A employers. The registry and database shall—

8 (1) be searchable using relevant criteria, includ-
9 ing the types of jobs needed to be filled, the date(s)
10 and location(s) of need, and the employer(s) named
11 in the job order;

12 (2) provide an interface for workers in English,
13 Spanish, and any other language that the Secretary
14 of Labor determines to be appropriate; and

15 (3) provide for public access of job orders ap-
16 proved under section 218(h)(2) of the Immigration
17 and Nationality Act.

18 **SEC. 202. AGRICULTURAL LABOR OR SERVICES.**

19 (a) DEFINITION.—Section 101(a) of The Immigra-
20 tion and Nationality Act (8 U.S.C. 1101(a)) is amended
21 by adding at the end the following:

22 “(53) The term ‘agricultural labor or services’
23 has the meaning given such term by the Secretary
24 of Agriculture in regulations and includes—

1 “(A) agricultural labor (as such term is de-
2 fined in section 3121(g) of the Internal Rev-
3 enue Code of 1986) except as described in sub-
4 section (g)(4) of such section;

5 “(B) agriculture (as such term is defined
6 in section 3(f) of the Fair Labor Standards Act
7 of 1938 (29 U.S.C. 203(f))), except that the re-
8 quirement that such work be performed by a
9 farmer or on a farm as an incident to or in con-
10 junction with such farming operations shall not
11 apply if such work is being performed at the di-
12 rection of and as incident to or in conjunction
13 with the farmers’ farming operation;

14 “(C) agricultural employment (as such
15 term is defined in Section 3 of the Migrant and
16 Seasonal Worker Protection Act (29 U.S.C.
17 1802));

18 “(D) the handling, planting, drying, pack-
19 ing, packaging, processing, freezing, or grading
20 prior to delivery for storage of any agricultural
21 or horticultural commodity in its unmanufac-
22 tured state;

23 “(E) all activities required for the prepara-
24 tion, processing or manufacturing, for further
25 distribution, of—

1 “(i) a product of agriculture (as such
2 term is defined in such section 3(f));

3 “(ii) a product of aquaculture; or

4 “(iii) wild-caught fish or shellfish;

5 “(F) forestry-related activities;

6 “(G) pressing of apples for cider on a
7 farm;

8 “(H) logging employment;

9 “(I) activities related to the management
10 and training of equines; and

11 “(J) performing any of the activities de-
12 scribed in this paragraph for an agricultural
13 employer (as such term is defined in paragraph
14 (2) of section 3 of the Migrant and Seasonal
15 Worker Protection Act (29 U.S.C. 1802), in-
16 cluding an agricultural cooperative, except that
17 for purposes of this subparagraph, the limita-
18 tions described in paragraphs (8)(B)(ii) and
19 (10)(B)(iii) shall not apply),

20 except that in regard to labor or services consisting
21 of meat or poultry processing, the term ‘agricultural
22 labor or services’ only includes the killing of animals
23 and the breakdown of their carcasses.”.

24 (b) CONFORMING AMENDMENTS.—The Immigration
25 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

1 (1) in section 101(a)(15)(H), by striking “, as
2 defined by the Secretary of Labor in regulations and
3 including agricultural labor defined in section
4 3121(g) of the Internal Revenue Code of 1986, agri-
5 culture as defined in section 3(f) of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 203(f)), and the
7 pressing of apples for cider on a farm, of a tem-
8 porary or seasonal nature”;

9 (2) in section 218(d)(2), by striking “of a tem-
10 porary or seasonal nature”.

11 **SEC. 203. H-2A PROGRAM REQUIREMENTS.**

12 Section 218 of the Immigration and Nationality Act
13 (8 U.S.C. 1188) is amended—

14 (1) in subsection (c), by striking paragraph (4);

15 (2) by redesignating subsection (i) as subsection
16 (p); and

17 (3) by inserting after subsection (h) the fol-
18 lowing:

19 “(i) **WAGE REQUIREMENTS.**—Each employer under
20 this section will offer the worker, during the period of au-
21 thorized employment, wages that are at least the greatest
22 of—

23 “(1) 125 percent of the Federal minimum
24 wage; or

1 “(2) the applicable State or local minimum
2 wage;

3 “(j) HOUSING REQUIREMENTS.—Employers shall
4 furnish housing in accordance with regulations established
5 by the Secretary of Labor. Such regulations shall be con-
6 sistent with the following:

7 “(1) IN GENERAL.—The employer shall provide
8 housing meeting applicable State, Federal, and local
9 standards, or secure housing which meets the local
10 standards for rental and/or public accommodations
11 or other substantially similar class of habitation.

12 “(2) FAMILY HOUSING.—The employer shall
13 provide family housing to workers with families who
14 request it when it is the prevailing practice in the
15 area and occupation of intended employment to pro-
16 vide family housing.

17 “(3) UNITED STATES WORKERS.—Notwith-
18 standing paragraphs (1) and (2), an employer is not
19 required to provide housing to United States work-
20 ers who are reasonably able to return to their resi-
21 dence within the same day.

22 “(4) TIMING OF INSPECTION.—

23 “(A) IN GENERAL.—The Secretary of
24 Labor or designee shall make a determination
25 as to whether the housing furnished by an em-

1 ployer for a worker meets the requirements im-
2 posed by this subsection prior to the date on
3 which the Secretary of Labor is required to
4 make a certification with respect to a petition
5 for the admission of such worker.

6 “(B) TIMELY INSPECTION.—The Secretary
7 of Labor shall provide a process for—

8 “(i) an employer to request inspection
9 of housing up to 60 days before the date
10 on which the employer will file a petition
11 under this section; and

12 “(ii) biennial inspection of housing for
13 workers who are engaged in agricultural
14 employment.

15 “(k) TRANSPORTATION REQUIREMENTS.—

16 “(1) TRAVEL TO PLACE OF EMPLOYMENT.—A
17 worker who completes 50 percent of the period of
18 employment specified in the job order shall be reim-
19 bursed by the employer for the cost of the worker’s
20 transportation and subsistence from the place from
21 which the worker came to work for the employer (or
22 place of last employment, if the worker traveled
23 from such place) to the place of employment.

24 “(2) TRAVEL FROM PLACE OF EMPLOYMENT.—

25 For a worker who completes the period of employ-

1 ment specified in the job order or who is terminated
2 without cause, the employer shall provide or pay for
3 the worker's transportation and subsistence from the
4 place of employment to the place from which the
5 worker, disregarding intervening employment, came
6 to work for the employer, or to the place of next em-
7 ployment, if the worker has contracted with a subse-
8 quent employer who has not agreed to provide or
9 pay for the worker's transportation and subsistence
10 to such subsequent employer's place of employment.

11 “(3) LIMITATION.—

12 “(A) AMOUNT OF REIMBURSEMENT.—Ex-
13 cept as provided in subparagraph (B), the
14 amount of reimbursement provided under para-
15 graph (1) or (2) to a worker need not exceed
16 the lesser of—

17 “(i) the actual cost to the worker of
18 the transportation and subsistence in-
19 volved; or

20 “(ii) the most economical and reason-
21 able common carrier transportation
22 charges and subsistence costs for the dis-
23 tance involved.

24 “(B) DISTANCE TRAVELED.—For travel to
25 or from the worker's home country, if the travel

1 distance between the worker's home and the rel-
2 evant consulate is 50 miles or less, reimburse-
3 ment for transportation and subsistence may be
4 based on transportation to or from the con-
5 sulate.

6 “(1) ELIGIBILITY FOR H-2A STATUS AND ADMISSION
7 TO THE UNITED STATES.—

8 “(2) VISA VALIDITY.—A visa issued to an H-
9 2A worker shall be valid for 3 years and shall allow
10 for multiple entries during the approved period of
11 admission.

12 “(3) PERIOD OF AUTHORIZED STAY; ADMIS-
13 SION.—

14 “(A) IN GENERAL.—An alien admissible as
15 an H-2A worker shall be authorized to stay in
16 the United States for the period of employment
17 specified in the petition approved by the Sec-
18 retary of Homeland Security under this section.
19 The maximum continuous period of authorized
20 stay for an H-2A worker is 36 months.

21 “(B) REQUIREMENT TO REMAIN OUTSIDE
22 THE UNITED STATES.—In the case of an H-2A
23 worker whose maximum continuous period of
24 authorized stay (including any extensions) has
25 expired, the alien may not again be eligible for

1 such stay until the alien remains outside the
2 United States for a cumulative period of at
3 least 45 days.

4 “(C) EXCEPTIONS.—The Secretary of
5 Homeland Security shall deduct absences from
6 the United States that take place during an H-
7 2A worker’s period of authorized stay from the
8 period that the alien is required to remain out-
9 side the United States under subparagraph (B),
10 if the alien or the alien’s employer requests
11 such a deduction, and provides clear and con-
12 vincing proof that the alien qualifies for such a
13 deduction. Such proof shall consist of evidence
14 including, but not limited to, arrival and depart-
15 ure records, copies of tax returns, and records
16 of employment abroad.

17 “(D) ADMISSION.—In addition to the max-
18 imum continuous period of authorized stay, an
19 H-2A worker’s authorized period of admission
20 shall include an additional period of 10 days
21 prior to the beginning of the period of employ-
22 ment for the purpose of traveling to the place
23 of employment and 45 days at the end of the
24 period of employment for the purpose of trav-
25 eling home or seeking an extension of status

1 based on a subsequent offer of employment if
2 the worker has not reached the maximum con-
3 tinuous period of authorized stay under sub-
4 paragraph (A) (subject to the exceptions in sub-
5 paragraph (C)).

6 “(4) CONTINUING H-2A WORKERS.—

7 “(A) SUCCESSIVE EMPLOYMENT.—An H-
8 2A worker is authorized to start new or concur-
9 rent employment upon the filing of a nonfrivo-
10 lous H-2A petition, or as of the requested start
11 date, whichever is later if—

12 “(i) the petition to start new or con-
13 current employment was filed prior to the
14 expiration of the H-2A worker’s period of
15 admission as defined in paragraph (3)(D);
16 and

17 “(ii) the H-2A worker has not been
18 employed without authorization in the
19 United States from the time of last admis-
20 sion to the United States in H-2A status
21 through the filing of the petition for new
22 employment.

23 “(B) PROTECTION DUE TO IMMIGRANT
24 VISA BACKLOGS.—Notwithstanding the limita-

1 tions on the period of authorized stay described
2 in paragraph (3), any H-2A worker who—

3 “(i) is the beneficiary of an approved
4 petition, filed under section 204(a)(1)(E)
5 or (F) for preference status under section
6 203(b)(3)(A)(iii); and

7 “(ii) is eligible to be granted such sta-
8 tus but for the annual limitations on visas
9 under section 203(b)(3)(A),
10 may apply for, and the Secretary of Homeland
11 Security may grant, an extension of such non-
12 immigrant status until the Secretary of Home-
13 land Security issues a final administrative deci-
14 sion on the alien’s application for adjustment of
15 status or the Secretary of State issues a final
16 decision on the alien’s application for an immi-
17 grant visa.

18 “(m) H-2A PETITION PROCEDURES.—

19 “(1) IN GENERAL.—The employer shall submit
20 information required for the adjudication of the H-
21 2A petition, including a job order, through the elec-
22 tronic platform no more than 75 calendar days and
23 no fewer than 60 calendar days before the employ-
24 er’s first date of need specified in the petition.

1 “(2) FILING BY AGRICULTURAL ASSOCIA-
2 TIONS.—An association of agricultural producers
3 that use agricultural services may file an H–2A peti-
4 tion under paragraph (1). If an association is a joint
5 or sole employer of workers who perform agricul-
6 tural labor or services, H–2A workers may be used
7 for the approved job opportunities of any of the as-
8 sociation’s producer members and such workers may
9 be transferred among its producer members to per-
10 form the agricultural labor or services for which the
11 petition was approved.

12 “(3) PETITIONS INVOLVING STAGGERED
13 ENTRY.—An employer may file a petition involving
14 employment in the same occupational classification
15 and same area of intended employment with multiple
16 start dates if—

17 “(A) the petition involves no more than 10
18 start dates;

19 “(B) the multiple start dates share a com-
20 mon end date;

21 “(C) no more than 120 days separate the
22 first start date and the final start date listed in
23 the petition; and

24 “(D) the need for multiple start dates
25 arises from variations in labor needs associated

1 with the job opportunity identified in the peti-
2 tion.

3 “(4) POST-CERTIFICATION AMENDMENTS.—The
4 Secretary of Labor shall provide a process for
5 amending a request for labor certification in con-
6 junction with an H-2A petition, subsequent to cer-
7 tification by the Secretary of Labor, in cases in
8 which the requested amendment does not materially
9 change the petition (including the job order).

10 “(n) SPECIAL PROCEDURES.—

11 “(1) IN GENERAL.—The Secretary of Labor, in
12 consultation with the Secretary of Agriculture and
13 Secretary of Homeland Security, may by regulation
14 establish alternate procedures that reasonably mod-
15 ify program requirements under this section, includ-
16 ing for special procedures industries, when the Sec-
17 retary determines that such modifications are re-
18 quired due to the unique nature of the work in-
19 volved.

20 “(2) ALLERGY LIMITATION.—An employer en-
21 gaged in the commercial beekeeping or pollination
22 services industry may require that an applicant be
23 free from bee pollen, venom, or other bee-related al-
24 lergies.

25 “(3) SPECIAL PROCEDURES INDUSTRIES.—

1 “(A) APPLICATION.—An individual em-
2 ployer in a special procedures industry may file
3 a program petition on its own behalf or in con-
4 junction with an association of employers. The
5 employer’s petition may be part of several re-
6 lated petitions submitted simultaneously that
7 constitute a master petition.

8 “(B) SPECIAL PROCEDURES INDUSTRY DE-
9 FINED.—In this subsection, the term ‘special
10 procedures industry’ means—

11 “(i) shepherding and goat herding;

12 “(ii) itinerant commercial beekeeping
13 and pollination;

14 “(iii) open range production of live-
15 stock;

16 “(iv) itinerant animal shearing; and

17 “(v) custom combining industries.”;

18 and

19 (4) in subsection (p), as so redesignated, by
20 adding at the end the following:

21 “(3) TEMPORARILY.—The term ‘temporarily’
22 means a period not exceeding 350 days.

23 “(4) JOB ORDER.—The term ‘job order’ means
24 the document containing the material terms and
25 conditions of employment, including obligations and

1 assurances required under this section or any other
2 law.”.

3 **SEC. 204. PORTABLE H-2A VISA PILOT PROGRAM.**

4 (a) ESTABLISHMENT OF PILOT PROGRAM.—

5 (1) IN GENERAL.—Not later than 18 months
6 after the date of the enactment of this Act, the Sec-
7 retary of Homeland Security, in consultation with
8 the Secretary of Labor and Secretary of Agriculture,
9 shall establish through regulation a 6-year pilot pro-
10 gram to facilitate the free movement and employ-
11 ment of H-2A workers to perform agricultural labor
12 or services for agricultural employers registered with
13 the Secretary of Agriculture. Notwithstanding the
14 requirements of section 218 of the Immigration and
15 Nationality Act, such regulation shall establish the
16 requirements for the pilot program, consistent with
17 subsection (b). For purposes of this section, such a
18 worker shall be referred to as a portable H-2A
19 worker, and status as such a worker shall be re-
20 ferred to as portable H-2A status.

21 (2) ONLINE PLATFORM.—The Secretary of
22 Homeland Security, in consultation with the Sec-
23 retary of Labor and the Secretary of Agriculture,
24 shall maintain an online electronic platform to con-
25 nect portable H-2A workers with registered agricul-

1 tural employers seeking workers to perform agricul-
2 tural labor or services. Employers shall post on the
3 platform available job opportunities, including a de-
4 scription of the nature and location of the work to
5 be performed, the anticipated period or periods of
6 need, and the terms and conditions of employment.
7 Such platform shall allow portable H-2A workers to
8 search for available job opportunities using relevant
9 criteria, including the types of jobs needed to be
10 filled and the dates and locations of need.

11 (3) LIMITATION.—Notwithstanding the
12 issuance of the regulation described in paragraph
13 (1), the Secretary of State may not issue a portable
14 H-2A visa and the Secretary of Homeland Security
15 may not confer portable H-2A status on any alien
16 until the Secretary of Homeland Security, in con-
17 sultation with the Secretary of Labor and Secretary
18 of Agriculture, has determined that a sufficient
19 number of employers have been designated as reg-
20 istered agricultural employers under subsection
21 (b)(1) and that such employers have sufficient job
22 opportunities to employ a reasonable number of
23 portable H-2A workers to initiate the pilot program.

24 (b) PILOT PROGRAM ELEMENTS.—The pilot program
25 in subsection (a) shall contain the following elements:

1 (1) REGISTERED AGRICULTURAL EMPLOY-
2 ERS.—

3 (A) DESIGNATION.—Agricultural employ-
4 ers shall be provided the ability to seek designa-
5 tion as registered agricultural employers. Rea-
6 sonable fees may be assessed commensurate
7 with the cost of processing applications for des-
8 ignation. A designation shall be valid for a pe-
9 riod of up to 3 years unless revoked for failure
10 to comply with program requirements. Reg-
11 istered employers that comply with program re-
12 quirements may apply to renew such designa-
13 tion for additional periods of up to 3 years for
14 the duration of the pilot program.

15 (B) LIMITATIONS.—Registered agricultural
16 employers may employ aliens with portable H-
17 2A status without filing a petition. Such em-
18 ployers shall pay such aliens at least the wage
19 required under section 218(d) of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1188(d)).

21 (C) WORKERS' COMPENSATION.—If a job
22 opportunity is not covered by or is exempt from
23 the State workers' compensation law, a reg-
24 istered agricultural employer shall provide, at
25 no cost to the worker, insurance covering injury

1 and disease arising out of, and in the course of,
2 the worker's employment, which will provide
3 benefits at least equal to those provided under
4 the State workers' compensation law.

5 (2) DESIGNATED WORKERS.—

6 (A) IN GENERAL.—Individuals who have
7 been previously admitted to the United States
8 in H-2A status, and maintained such status
9 during the period of admission, shall be pro-
10 vided the opportunity to apply for portable H-
11 2A status. Portable H-2A workers shall be sub-
12 ject to the provisions on visa validity and peri-
13 ods of authorized stay and admission for H-2A
14 workers described in paragraphs (2) and (3) of
15 section 218(j) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1188(j)(2) and (3)).

17 (B) LIMITATIONS ON AVAILABILITY OF
18 PORTABLE H-2A STATUS.—

19 (i) INITIAL OFFER OF EMPLOYMENT
20 REQUIRED.—No alien may be granted
21 portable H-2A status without an initial
22 valid offer of employment to perform tem-
23 porary or agricultural labor or services
24 from a registered agricultural employer.

1 (ii) NUMERICAL LIMITATION.—The
2 total number of aliens who may hold valid
3 portable H–2A status at any one time may
4 not exceed 10,000.

5 (C) SCOPE OF EMPLOYMENT.—During the
6 period of admission, a portable H–2A worker
7 may perform agricultural labor or services for
8 any employer in the United States that is des-
9 ignated as a registered agricultural employer
10 pursuant to paragraph (1). An employment ar-
11 rangement under this section may be termi-
12 nated by either the portable H–2A worker or
13 the registered agricultural employer at any
14 time.

15 (D) TRANSFER TO NEW EMPLOYMENT.—
16 At the cessation of employment with a reg-
17 istered agricultural employer, a portable H–2A
18 worker shall have 60 days to secure new em-
19 ployment with a registered agricultural em-
20 ployer.

21 (E) MAINTENANCE OF STATUS.—A port-
22 able H–2A worker who does not secure new em-
23 ployment with a registered agricultural em-
24 ployer within 60 days shall be considered to
25 have failed to maintain such status and shall

1 depart the United States or be subject to re-
2 moval under section 237(a)(1)(C)(i) of the Im-
3 migration and Nationality Act (8 U.S.C.
4 1188(a)(1)(C)(i)).

5 (3) ENFORCEMENT.—The Secretary of Labor
6 shall be responsible for conducting investigations
7 and random audits of employers to ensure compli-
8 ance with the employment-related requirements of
9 this section, consistent with section 218(m) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1188(m)). The Secretary of Labor shall have the au-
12 thority to collect reasonable civil penalties for viola-
13 tions, which shall be utilized by the Secretary for the
14 administration and enforcement of the provisions of
15 this section.

16 (4) ELIGIBILITY FOR SERVICES.—Section 305
17 of Public Law 99–603 (100 Stat. 3434) is amended
18 by striking “other employment rights as provided in
19 the worker’s specific contract under which the non-
20 immigrant was admitted” and inserting “employ-
21 ment-related rights”.

22 (c) REPORT.—Not later than 6 months before the
23 end of the third fiscal year of the pilot program, the Sec-
24 retary of Homeland Security, in consultation with the Sec-
25 retary of Labor and the Secretary of Agriculture, shall

1 prepare and submit to the Committees on the Judiciary
2 of the House of Representatives and the Senate, a report
3 that provides—

4 (1) the number of employers designated as reg-
5 istered agricultural employers, broken down by geo-
6 graphic region, farm size, and the number of job op-
7 portunities offered by such employers;

8 (2) the number of employers whose designation
9 as a registered agricultural employer was revoked;

10 (3) the number of individuals granted portable
11 H-2A status in each fiscal year, along with the
12 number of such individuals who maintained portable
13 H-2A status during all or a portion of the 3-year
14 period of the pilot program;

15 (4) an assessment of the impact of the pilot
16 program on the wages and working conditions of
17 United States farm workers;

18 (5) the results of a survey of individuals grant-
19 ed portable H-2A status, detailing their experiences
20 with and feedback on the pilot program;

21 (6) the results of a survey of registered agricul-
22 tural employers, detailing their experiences with and
23 feedback on the pilot program;

1 (7) an assessment as to whether the program
2 should be continued and if so, any recommendations
3 for improving the program; and

4 (8) findings and recommendations regarding ef-
5 fective recruitment mechanisms, including use of
6 new technology to match workers with employers
7 and ensure compliance with applicable labor and em-
8 ployment laws and regulations.