

115TH CONGRESS
1ST SESSION

S. _____

To improve the enforcement of the immigration laws and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To improve the enforcement of the immigration laws 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 “Building America’s Trust through Border and National
6 Security Act of 2017”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—BORDER SECURITY

Sec. 101. Definitions.

2

Subtitle A—Infrastructure and Equipment

- Sec. 102. Strengthening the Secure Fence Act of 2006.
- Sec. 103. Air and marine operations flight hours; prioritization.
- Sec. 104. Border security capability deployment program.
- Sec. 105. Border security capability deployment.
- Sec. 106. Border Patrol physical infrastructure improvements.
- Sec. 107. U.S. Border Patrol checkpoints.
- Sec. 108. U.S. Border Patrol forward operating bases.
- Sec. 109. Border security technology program management.
- Sec. 110. Authority to acquire leaseholds.
- Sec. 111. National Guard support to secure the Southern border and reimbursement of States for deployment of the National Guard at the border.
- Sec. 112. Operation Phalanx.
- Sec. 113. Merida Initiative.
- Sec. 114. Prohibitions on actions that impede border security on certain Federal land.
- Sec. 115. Landowner and rancher security enhancement.
- Sec. 116. Limitation on land owner's liability.
- Sec. 117. Authorization of appropriations for High Intensity Drug Trafficking Area Program.
- Sec. 118. Eradication of carrizo cane and salt cedar.
- Sec. 119. Exemption from government contracting and hiring rules.

Subtitle B—Personnel

PART I—INCREASES IN IMMIGRATION AND LAW ENFORCEMENT PERSONNEL

- Sec. 121. Additional U.S. Customs and Border Protection agents and officers.
- Sec. 122. U.S. Customs and Border Protection retention incentives.
- Sec. 123. Additional U.S. Immigration and Customs Enforcement detention officers.

PART II—JUDICIAL RESOURCES

- Sec. 131. Operation Streamline and judicial resources for border security.
- Sec. 132. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

Subtitle C—Grants

- Sec. 151. State criminal alien assistance program.
- Sec. 152. Operation Stonegarden.
- Sec. 153. Southwest border region emergency communications grant.
- Sec. 154. Grants for identification of victims of cross-border human smuggling.
- Sec. 155. Grant accountability.

Subtitle D—Authorization of Appropriations

- Sec. 172. Authorization of appropriations.

TITLE II—EMERGENCY PORT OF ENTRY PERSONNEL AND
INFRASTRUCTURE FUNDING

- Sec. 201. Ports of entry infrastructure.
- Sec. 202. Secure communications.
- Sec. 203. Biometric exit data system.

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Sec. 204. Sense of Congress on cooperation between agencies.

Sec. 205. Authorization of appropriations.

TITLE III—DOMESTIC SECURITY AND INTERIOR ENFORCEMENT

Subtitle A—General Matters

Sec. 301. Ending catch and release for repeat immigration violators and criminals aliens.

Sec. 302. Deterring visa overstays.

Sec. 303. Increase in detention bed space.

Sec. 304. Collection of DNA from criminal and detained aliens.

Sec. 305. Collection, use, and storage of biometric data.

Sec. 306. Ending abuse of parole authority.

Sec. 307. Stop Dangerous Sanctuary Cities Act.

Sec. 308. Reinstatement of the Secure Communities program.

Subtitle B—Protecting Children and America’s Homeland Act of 2017

Sec. 310. Short title.

Sec. 311. Repatriation of unaccompanied alien children.

Sec. 312. Expedited due process and screening for unaccompanied alien children.

Sec. 313. Child welfare and law enforcement information sharing.

Sec. 314. Accountability for children and taxpayers.

Sec. 315. Custody of unaccompanied alien children in formal removal proceeding.

Sec. 316. Fraud in connection with the transfer of custody of unaccompanied alien children.

Sec. 317. Notification of States, reporting, and monitoring.

Sec. 318. Emergency immigration judge resources.

Sec. 319. Reports to Congress.

Subtitle C—Back the Blue Act of 2017

Sec. 321. Short title.

Sec. 322. Protection of law enforcement officers.

Sec. 323. Specific aggravating factor for Federal death penalty killing of law enforcement officer.

Sec. 324. Limitation on Federal habeas relief for murders of law enforcement officers.

Sec. 325. Limitation on recovery of certain damages for individuals engaged in felonies or crimes of violence.

Sec. 326. Self-defense rights for law enforcement officers.

Sec. 327. Improving the relationship between law enforcement agencies and the communities they serve.

TITLE IV—PENALTIES FOR SMUGGLING, DRUG TRAFFICKING, HUMAN TRAFFICKING, TERRORISM, AND ILLEGAL ENTRY AND REENTRY; BARS TO READMISSION OF REMOVED ALIENS

Sec. 401. Dangerous human smuggling, human trafficking, and human rights violations.

Sec. 402. Putting the Brakes on Human Smuggling Act.

Sec. 403. Drug trafficking and crimes of violence committed by illegal aliens.

Sec. 404. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.

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- Sec. 405. Penalties for reentry of removed aliens.
- Sec. 406. Prohibition on readmission of removed aliens.
- Sec. 407. Freezing bank accounts of international criminal organizations and money launderers.
- Sec. 408. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
- Sec. 409. Closing the loophole on drug cartel associates engaged in money laundering.

TITLE V—PROTECTING NATIONAL SECURITY AND PUBLIC
SAFETY

- Sec. 501. Definition of engaging in terrorist activity.
- Sec. 502. Detention of deportable aliens to protect public safety.
- Sec. 503. Criminal detention of aliens to protect public safety.
- Sec. 504. Recruitment of persons to participate in terrorism.
- Sec. 505. Barring and removing persecutors from the United States.
- Sec. 506. Increased criminal penalties related to gang violence and removal.
- Sec. 507. Barring aliens with convictions for driving under the influence or while intoxicated.
- Sec. 508. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
- Sec. 509. Enhanced criminal penalties for high speed flight.
- Sec. 510. Prohibition on asylum and cancellation of removal for terrorists.
- Sec. 511. Aggravated felonies.
- Sec. 512. Sanctions for countries that delay or prevent repatriation of their nationals.
- Sec. 513. Prohibition on firearms by certain aliens.
- Sec. 514. Expansion of criminal alien repatriation programs.
- Sec. 515. Strong Visa Integrity Secures America Act.
- Sec. 516. Cancellation of additional visas.
- Sec. 517. Judicial review of visa revocation.
- Sec. 518. Secure Visas Act.
- Sec. 519. Requirement to complete background checks.
- Sec. 520. Access to the National Crime Information Center Interstate Identification Index.
- Sec. 521. Appropriate remedies for immigration litigation.

TITLE VI—PROHIBITION ON TERRORISTS OBTAINING LAWFUL
STATUS IN THE UNITED STATES

Subtitle A—Prohibition on Adjustment to Lawful Permanent Resident Status

- Sec. 601. Prohibition on terrorists and aliens who pose a threat to national security or public safety on adjustment to lawful permanent resident status.
- Sec. 602. Date of admission for purposes of adjustment of status.
- Sec. 603. Extension of time limit to permit rescission of adjustment of status.

Subtitle B—Prohibition on Naturalization and United States Citizenship

- Sec. 611. Prohibition on terrorists becoming naturalized United States citizens.
- Sec. 612. Terrorist bar to good moral character.
- Sec. 613. Prohibition on judicial review of naturalization for aliens in removal proceedings.
- Sec. 614. Limitation on judicial review of determinations on naturalization.
- Sec. 615. Enhancements to denaturalization authorities.

Sec. 616. Expatriate Terrorist Act.

TITLE VII—OTHER MATTERS

Sec. 701. Exemption from the Administrative Procedures Act.

Sec. 702. Exemption from the Paperwork Reduction Act.

Sec. 703. References to authority in the Immigration and Nationality Act.

Sec. 704. Technical corrections.

Sec. 705. Severability.

Sec. 706. Offset; rescission of unobligated Federal funds.

TITLE VIII—TECHNICAL AMENDMENTS

Sec. 801. Miscellaneous technical amendments.

Sec. 802. Repeals and construction.

Sec. 803. Miscellaneous technical corrections.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—Except as otherwise spe-
4 cifically provided, the term “Department” means the
5 Department of Homeland Security.

6 (2) SECRETARY.—The term “Secretary” means
7 the Secretary of Homeland Security.

8 **TITLE I—BORDER SECURITY**

9 **SEC. 101. DEFINITIONS.**

10 In this title:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the General
13 Services Administration.

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

17 (3) COVERED AREA.—The term “covered area”
18 means a geographic area that the Secretary deter-

1 mines is in a remote location or is an area for which
2 it is difficult to find full-time permanent covered
3 CBP employees, as compared to other Ports of
4 Entry or duty stations.

5 (4) COVERED CBP EMPLOYEE.—The term “cov-
6 ered CBP employee” means a current employee of
7 U.S. Customs and Border Protection performing ac-
8 tivities that are critical to border security or customs
9 enforcement, as determined by the Commissioner.

10 (5) HIGH TRAFFIC AREAS.—The term “high
11 traffic areas” means sectors along the Northern and
12 Southern land borders of the United States that are
13 within the responsibility of U.S. Border Patrol and
14 have significant unlawful cross-border activity.

15 (6) NORTHERN BORDER.—The term “Northern
16 border” means the international border between the
17 United States and Canada.

18 **[(7) RELEVANT COMMITTEES OF CONGRESS.—**
19 The term “relevant committees of Congress” means
20 **[_____].]**

21 (8) RURAL, HIGH-TRAFFICKED AREAS.—The
22 term “rural, high-trafficked areas” means rural
23 areas through which drugs and undocumented aliens
24 are routinely smuggled, as designated by the Com-
25 missioner.

1 (9) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means –

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

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

9 (10) SITUATIONAL AWARENESS.—The term
10 “situational awareness” has the meaning given that
11 term in section 1092(a)(7) of the National Defense
12 Authorization Act for Fiscal Year 2017 (Public Law
13 114–328).

14 (11) SOUTHERN BORDER.—The term “South-
15 ern border” means the international border between
16 the United States and Mexico.

17 (12) SPECIAL RATE OF PAY.—The term “spe-
18 cial rate of pay” means a higher than normal rate
19 of pay that exceeds the otherwise applicable rate of
20 basic pay for a similar covered CBP employee at a
21 land Port of Entry.

Subtitle A—Infrastructure and Equipment

SEC. 102. STRENGTHENING THE SECURE FENCE ACT OF 2006.

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

(1) in subsection (b)(1)—

(A) in subparagraph (A), by inserting “situational awareness and” before “operational control”; and

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

“(B) **TACTICAL INFRASTRUCTURE.**—

“(i) **IN GENERAL.**—Not later than January 20, 2021, the Secretary of Homeland Security shall deploy tactical infrastructure along the Southern border, using the most effective tactical infrastructure available for achieving situational awareness and operational control of the southwest border.

“(ii) **TACTICAL INFRASTRUCTURE DEFINED.**—In this subparagraph, the term ‘tactical infrastructure’ means physical

1 barriers, levees, all-weather and lateral ac-
2 cess roads, boat ramps, and forward oper-
3 ating bases.”;

4 (2) in subsection (c)(1), by inserting “and to
5 maintain such barriers and roads after construction”
6 after “under this section”; and

7 (3) by adding at the end the following:

8 “(d) AGENT SAFETY.—In carrying out this section,
9 Secretary of Homeland Security may not construct rein-
10 forced fencing that would, in any manner, impede or nega-
11 tively affect the safety of any officer or agent of the De-
12 partment of Homeland Security or any other Federal
13 agency.

14 “(e) SITUATIONAL AWARENESS DEFINED.—In this
15 section, the term ‘situational awareness’ has the meaning
16 given that term in section 1092(a)(7) of the National De-
17 fense Authorization Act for Fiscal Year 2017 (Public Law
18 114–328).”.

19 **SEC. 103. AIR AND MARINE OPERATIONS FLIGHT HOURS;**
20 **PRIORITIZATION.**

21 (a) INCREASED FLIGHT HOURS.—The Secretary of
22 Homeland Security shall ensure that not fewer than
23 130,000 annual flight hours are carried out by Air and
24 Marine Operations of U.S. Customs and Border Protec-
25 tion.

1 (b) UNMANNED AERIAL SYSTEM.—Air and Marine
2 Operations shall operate unmanned aerial systems not less
3 than 16 hours per day, 7 days per week.

4 (c) UNMANNED AERIAL SYSTEMS REPORT.—Air and
5 Marine Operations shall submit an annual unmanned aer-
6 ial systems operations report to the Committee on Home-
7 land Security and Governmental Affairs of the Senate, the
8 Committee on the Judiciary of the Senate, the Committee
9 on Homeland Security of the House of Representatives,
10 and the Committee on the Judiciary of the House of Rep-
11 resentatives that identifies the number of hours Air and
12 Marine Operations operated unmanned aerial systems,
13 during the reporting period—

14 (1) in a transit zone;

15 (2) on a land border;

16 (3) on a maritime border; and

17 (4) to assist other Federal, State, local, and
18 tribal law enforcement agencies.

19 (d) PRIORITIZATION.—The Executive Assistant Com-
20 missioner for Air and Marine Operations of U.S. Customs
21 and Border Protection shall assign the greatest
22 prioritization to support requests from the Chief of the
23 U.S. Border Patrol to carry out the requirements of this
24 section.

1 **SEC. 104. BORDER SECURITY CAPABILITY DEPLOYMENT**
2 **PROGRAM.**

3 The Secretary shall fully implement U.S. Customs
4 and Border Protection’s Border Security Capability De-
5 ployment Program and expand the integrated surveillance
6 and intrusion detection system at land ports of entry along
7 the Southern and Northern borders by September 30,
8 2021.

9 **SEC. 105. BORDER SECURITY CAPABILITY DEPLOYMENT.**

10 (a) CAPABILITY DEPLOYMENT TO SPECIFIC SECTORS
11 AND REGIONS.—Not later than one year after the date
12 of the enactment of this Act, the Secretary, acting through
13 the appropriate component of the Department, shall, at
14 a minimum, deploy to each sector or region, as the case
15 may be, of the Southern border and the Northern border,
16 in a prioritized manner to achieve situational awareness
17 and operational control of the border, the following addi-
18 tional capabilities:

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

21 (A) Subterranean surveillance and detec-
22 tion technologies.

23 (B) To increase coastal maritime domain
24 awareness, the following:

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

12

1 (ii) Unmanned aerial vehicles with
2 maritime surveillance capability.

3 (iii) Maritime patrol aircraft.

4 (iv) Coastal radar surveillance sys-
5 tems.

6 (v) Maritime signals intelligence capa-
7 bilities.

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

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

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

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

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

18 (A) Tower-based surveillance technology.

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

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

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

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

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

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

7 (A) Tower-based surveillance technology.

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

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

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

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

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

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

20 (H) Man-portable unmanned aerial vehi-
21 cles.

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

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

4 (B) Man-portable unmanned aerial vehi-
5 cles.

6 (C) Tower-based surveillance technology.

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

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

11 (F) Deployable, lighter-than-air ground
12 surveillance equipment.

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

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

17 (A) Tower-based surveillance technology.

18 (B) Ultralight aircraft detection capabili-
19 ties.

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

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

24 (E) Deployable, lighter-than-air ground
25 surveillance equipment.

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

3 (G) Man-portable surveillance capabilities.

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

6 (A) Tower-based surveillance technology.

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

9 (C) Improved agent communications capa-
10 bilities.

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

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

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

17 (G) Mobile vehicle-mounted and man-port-
18 able surveillance capabilities.

19 (H) Man-portable unmanned aerial vehi-
20 cles.

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

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

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

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

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

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

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

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

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

15 (A) Maritime detection resources for the
16 Falcon Lake region.

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

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

22 (D) Ultralight aircraft detection capability.

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

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

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

12 (C) Ultralight aircraft detection capability.

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

15 (E) Increased monitoring for cross-river
16 dams, culverts, footpaths.

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

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

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

23 (10) EASTERN PACIFIC MARITIME REGION.—
24 For the Eastern Pacific Maritime region, the fol-
25 lowing:

1 (A) Not later than 2 years after the date
2 of the enactment of this Act, an increase of not
3 less than 10 percent in the number of overall
4 cutter, boat, and aircraft hours spent con-
5 ducting interdiction operations over the average
6 number of such hours during the preceding 3
7 fiscal years.

8 (B) Increased maritime signals intelligence
9 capabilities.

10 (C) To increase maritime domain aware-
11 ness, the following:

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

14 (ii) Unmanned aerial vehicles with
15 maritime surveillance capability.

16 (iii) Increased maritime aviation pa-
17 trol hours.

18 (iv) Coastal radar surveillance sys-
19 tems.

20 (D) Increased operational hours for mari-
21 time security components dedicated to joint
22 counter-smuggling and interdiction efforts with
23 other Federal agencies, including the Joint
24 Interagency Task Forces and the Deployable
25 Specialized Forces of the Coast Guard.

1 (11) CARIBBEAN AND GULF MARITIME RE-
2 GION.—For the Caribbean and Gulf Maritime re-
3 gion, the following:

4 (A) Not later than 2 years after the date
5 of the enactment of this Act, an increase of not
6 less than 10 percent in the number of overall
7 cutter, boat, and aircraft hours spent con-
8 ducting interdiction operations over the average
9 number of such hours during the preceding 3
10 fiscal years.

11 (B) Long-range infrared cameras on Mona
12 Island.

13 (C) Increased maritime signals intelligence
14 capabilities.

15 (D) Increased maritime domain awareness
16 and surveillance capabilities, including the fol-
17 lowing:

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

20 (ii) Unmanned aerial vehicles with
21 maritime surveillance capability.

22 (iii) Increased maritime aviation pa-
23 trol hours.

24 (iv) Coastal radar surveillance sys-
25 tems.

1 (E) Increased operational hours for mari-
2 time security components dedicated to joint
3 counter-smuggling and interdiction efforts with
4 other Federal agencies, including the Joint
5 Interagency Task Forces and the Deployable
6 Specialized Forces of the United States Coast
7 Guard.

8 (12) BLAINE SECTOR.—For the Blaine sector,
9 the following:

10 (A) Coastal radar surveillance systems.

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

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

15 (D) Improved agent communications sys-
16 tems.

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

20 (F) Man-portable unmanned aerial vehi-
21 cles.

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

24 (H) Modernized port of entry surveillance
25 capabilities.

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

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

5 (A) Mobile vehicle-mounted and man-port-
6 able surveillance capabilities.

7 (B) Advanced unattended surveillance sen-
8 sors.

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

11 (D) Increased flight hours for aerial detec-
12 tion, interdiction, and monitoring operations ca-
13 pability.

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

16 (F) Completion of 6 miles of the Bog
17 Creek road.

18 (G) Ultralight aircraft detection capabili-
19 ties.

20 (H) Modernized port of entry surveillance
21 capabilities.

22 (I) Increased maritime interdiction capa-
23 bilities.

24 (14) HAVRE SECTOR.—For the Havre sector,
25 the following:

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

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

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

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

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

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

14 (G) Modernized port of entry surveillance
15 capabilities.

16 (15) GRAND FORKS SECTOR.—For the Grand
17 Forks sector, the following:

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

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

22 (C) Improved agent communications sys-
23 tems.

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

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

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

8 (G) Modernized port of entry surveillance
9 capabilities.

10 (16) DETROIT SECTOR.—For the Detroit sec-
11 tor, the following:

12 (A) Coastal radar surveillance systems.

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

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

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

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

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

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

1 (H) Modernized port of entry surveillance
2 capabilities.

3 (I) Increased maritime interdiction capa-
4 bilities.

5 (17) BUFFALO SECTOR.—For the Buffalo sec-
6 tor, the following:

7 (A) Coastal radar surveillance systems.

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

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

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

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

17 (F) Man-portable unmanned aerial vehi-
18 cles.

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

21 (H) Modernized port of entry surveillance
22 capabilities.

23 (I) Increased maritime interdiction capa-
24 bilities.

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

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

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

7 (C) Improved agent communications sys-
8 tems.

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

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

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

16 (G) Modernized port of entry surveillance
17 capabilities.

18 (19) HOULTON SECTOR.—For the Houlton sec-
19 tor, the following:

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

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

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

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

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

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

8 (G) Modernized port of entry surveillance
9 capabilities.

10 (b) FENCING AND INFRASTRUCTURE.—

11 (1) NEW FENCING.—Not later than one year
12 after the date of the enactment of this Act, the Sec-
13 retary, in implementing section 102 of the Illegal
14 Immigration Reform and Immigrant Responsibility
15 Act of 1996 (8 U.S.C. 1103 note), shall construct,
16 at a minimum, each of the following:

17 (A) Seven miles of double-layer fencing in
18 the Border Patrol's San Diego sector in addi-
19 tion to such fencing in existence as of such date
20 of enactment.

21 (B) Ten miles of double-layer pedestrian
22 fencing in the Border Patrol's Tucson sector in
23 addition to such fencing in existence as of such
24 date of enactment.

1 (C) Ten miles of double-layer pedestrian
2 fencing in the Border Patrol's Rio Grande Val-
3 ley sector in addition to such fencing in exist-
4 ence as of such date of enactment.

5 (2) FENCE REPAIR AND REPLACEMENT.—Not
6 later than one year after the date of the enactment
7 of this Act, the Secretary shall replace, at a min-
8 imum, each of the following:

9 (A) Thirty-one miles of landing mat fenc-
10 ing with bollard style fencing in the Border Pa-
11 trol's San Diego sector.

12 (B) Five miles of landing mat fencing with
13 bollard style fencing in the Border Patrol's El
14 Centro sector.

15 (C) Three miles of landing mat fencing
16 with bollard style fencing in the Border Patrol's
17 Yuma sector.

18 (D) Twenty-five miles of landing mat fenc-
19 ing with bollard style fencing in the Border Pa-
20 trol's Tucson sector.

21 (E) Two miles of landing mat fencing with
22 bollard style fencing in the Border Patrol's El
23 Paso sector.

1 (3) RIO GRANDE VALLEY FENCING AND LEV-
2 EES; REIMBURSEMENT FOR FLOOD CONTROL
3 PROJECT.—

4 (A) LEVEE AND FENCE CONSTRUCTION.—
5 Not later than 1 year after the date of the en-
6 actment of this Act, the Secretary shall con-
7 struct 30 miles of levee wall in the Border Pa-
8 trol's Rio Grande Valley sector in addition to
9 such fencing and levees in existence as of such
10 date of enactment.

11 (B) REIMBURSEMENT RELATED TO THE
12 LOWER RIO GRAND VALLEY FLOOD CONTROL
13 PROJECT.—The International Boundary and
14 Water Commission is authorized to reimburse
15 State and local governments for any expenses,
16 both past and present, incurred by such govern-
17 ments in designing, constructing, and rehabili-
18 tating the Commission's Lower Rio Grande Val-
19 ley Flood Control Project.

20 (c) ROAD CONSTRUCTION.—Not later than one year
21 after the date of the enactment of this Act, the Secretary
22 shall complete, at a minimum, each of the following road
23 construction projects to allow greater access for the Bor-
24 der Patrol:

1 (1) Seven miles of road construction in the Bor-
2 der Patrol's San Diego sector.

3 (2) Ten miles of road construction in the Bor-
4 der Patrol's El Centro sector.

5 (3) Sixteen miles of road construction in the
6 Border Patrol's Yuma sector.

7 (4) Fifty-four miles of road construction in the
8 Border Patrol's Tucson sector.

9 (5) One hundred ninety-two miles of road con-
10 struction in the Border Patrol's Big Bend sector.

11 (6) Two miles of road construction in the Bor-
12 der Patrol's El Paso sector.

13 (7) Forty-two miles of road construction in the
14 Border Patrol's Del Rio sector.

15 (8) Sixty-five miles of road construction in the
16 Border Patrol's Laredo sector.

17 (9) Fifteen miles of road construction in the
18 Border Patrol's Rio Grande Valley sector.

19 (d) ROAD MAINTENANCE.—Not later than one year
20 after the date of the enactment of this Act, the Secretary
21 shall complete, at a minimum, each of the following:

22 (1) Thirty-seven miles of road maintenance in
23 the Border Patrol's San Diego sector.

24 (2) One thousand two hundred miles of road
25 maintenance in the Border Patrol's Del Rio sector.

1 (3) Twenty-six miles of road maintenance in the
2 Border Patrol's Laredo sector.

3 (4) Ninety-four miles of road maintenance in
4 the Border Patrol's Rio Grande Valley sector.

5 (e) NEW VEHICLE FENCE.—Not later than one year
6 after the date of the enactment of this Act, the Secretary
7 shall complete six miles of vehicle fencing in the Border
8 Patrol's Big Bend sector in addition to such fencing in
9 existence as of such date of enactment.

10 (f) VEHICLE FENCE REPLACEMENT.—Not later than
11 one year after the date of the enactment of this Act, the
12 Secretary shall replace five miles of vehicle fencing in ex-
13 istence as of such date of enactment in the Border Patrol's
14 Tucson sector with new vehicle fencing.

15 (g) BOAT RAMPS.—Not later than 180 days after the
16 date of the enactment of this Act, the Secretary shall com-
17 plete, at a minimum, the construction of each of the fol-
18 lowing:

19 (1) Eight boat ramps in the Border Patrol's
20 Del Rio sector in addition to such ramps in existence
21 as of such date of enactment.

22 (2) One boat ramp in the Border Patrol's La-
23 redo sector in addition to such ramps in existence as
24 of such date of enactment.

1 (3) Twenty-one boat ramps in the Border Pa-
2 trol's Rio Grande Valley sector in addition to such
3 ramps in existence as of such date of enactment.

4 (h) ACCESS GATES.—Not later than 1 year after the
5 date of the enactment of this Act, the Secretary shall con-
6 struct 34 access gates in the Border Patrol's Rio Grande
7 Valley sector in addition to such gates in existence as of
8 such date of enactment.

9 (i) TYPES OF ROADS COVERED.—The projects for
10 the construction or maintenance of roads required by sub-
11 sections (c) and (d) include construction or maintenance
12 of border roads, patrol roads, access roads, and Federal,
13 State, local, and privately owned roads.

14 (j) TACTICAL FLEXIBILITY.—

15 (1) SOUTHERN AND NORTHERN LAND BOR-
16 DER.—The Secretary of Homeland Security may
17 alter the capability deployment referred to in this
18 section if the Secretary determines, after consulta-
19 tion with [the appropriate congressional commit-
20 tees], such alteration is required based on changes
21 or increases in border security threats or trends.

22 (2) MARITIME BORDER.—

23 (A) NOTIFICATION.—The Commandant of
24 the United States Coast Guard shall notify the
25 Committee on Homeland Security and Govern-

1 mental Affairs of the Senate, the Committee on
2 Commerce, Science, and Transportation of the
3 Senate, the Committee on Homeland Security
4 of the House of Representatives, and the Com-
5 mittee on Transportation and Infrastructure of
6 the House of Representatives regarding the ca-
7 pability deployments referred to in this section,
8 including information relating to—

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

11 (ii) the impact such deployments have
12 on the capability of the United States
13 Coast Guard to conduct its mission in each
14 of the regions referred to in subsection (a).

15 (B) ALTERATION.—The Commandant of
16 the United States Coast Guard may alter the
17 capability deployments referred to in this sec-
18 tion if the Commandant—

19 (i) determines, after consultation with
20 the congressional committees referred to in
21 clause (i), that such alteration is nec-
22 essary; and

23 (ii) not later than 30 days after mak-
24 ing such determination, notifies such con-

1 gressional committees regarding such alter-
2 ation, including information relating to—

3 (I) the number and types of as-
4 sets and personnel deployed pursuant
5 to such alteration; and

6 (II) the impact such alteration
7 has on the capability of the United
8 States Coast Guard to conduct its
9 mission in each of the regions referred
10 to in subsection (a).

11 **SEC. 106. BORDER PATROL PHYSICAL INFRASTRUCTURE**
12 **IMPROVEMENTS.**

13 The Secretary shall upgrade existing physical infra-
14 structure of the Department, and construct and acquire
15 additional physical infrastructure, including—

- 16 (1) U.S. Border Patrol stations;
17 (2) U.S. Border Patrol checkpoints;
18 (3) forward operating bases;
19 (4) mobile command centers;
20 (5) lighting; and
21 (6) other necessary facilities, structures, and
22 properties.

1 **SEC. 107. U.S. BORDER PATROL CHECKPOINTS.**

2 The Secretary shall operate and maintain additional
3 tactical or permanent checkpoints on roadways in the
4 Southern border.

5 **SEC. 108. U.S. BORDER PATROL FORWARD OPERATING**
6 **BASES.**

7 (a) FORWARD OPERATING BASES.—Not later than
8 one year after the date of the enactment of this Act, the
9 Secretary shall complete, at a minimum, construction of
10 each of the following:

11 (1) One forward operating base in the Border
12 Patrol’s El Paso sector in addition to such bases in
13 existence as of such date of enactment.

14 (2) Two forward operating bases in the Border
15 Patrol’s Tucson sector in addition to such bases in
16 existence as of such date of enactment.

17 (3) Three forward operating bases in the Bor-
18 der Patrol’s Big Bend sector in addition to such
19 bases in existence as of such date of enactment.

20 (4) Two forward operating bases in the Border
21 Patrol’s Del Rio sector in addition to such bases in
22 existence as of such date of enactment.

23 (5) Two forward operating bases in the Border
24 Patrol’s Laredo sector in addition to such bases in
25 existence as of such date of enactment.

1 (6) Two forward operating bases in the Border
2 Patrol's Rio Grande Valley sector in addition to such
3 bases in existence as of such date of enactment.

4 (b) UPGRADES AND MAINTENANCE.—Not later than
5 180 days after the date of the enactment of this Act, the
6 Secretary shall upgrade existing forward operating bases
7 of the Border Patrol on or near the Southern border to
8 ensure that such bases meet the minimum requirements
9 set forth in subsection (c).

10 (c) MINIMUM REQUIREMENTS.—Each forward oper-
11 ating base referred to in subsection (a) or (b) shall be
12 equipped with—

13 (1) perimeter security;

14 (2) temporary detention space (separate from
15 existing housing facilities);

16 (3) portable generators sufficient to meet the
17 power requirements for the base;

18 (4) interview rooms;

19 (5) local area network connectivity;

20 (6) cellular service;

21 (7) potable water;

22 (8) power; and

23 (9) a helicopter landing zone.

1 **SEC. 109. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

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

6 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**
7 **MANAGEMENT.**

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

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

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

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

23 “(b) ADHERENCE TO STANDARDS.—The Secretary,
24 acting through the Under Secretary for Management and
25 the Commissioner of U.S. Customs and Border Protection,
26 shall ensure border security technology acquisition pro-

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

8 “(c) PLAN.—The Secretary, acting through the
9 Under Secretary for Management, in coordination with
10 the Under Secretary for Science and Technology and the
11 Commissioner of U.S. Customs and Border Protection,
12 shall submit to the appropriate congressional committees
13 a plan for testing and evaluation, as well as the use of
14 independent verification and validation resources, for bor-
15 der security technology so that new border security tech-
16 nologies are evaluated through a series of assessments,
17 processes, and audits to ensure compliance with relevant
18 departmental acquisition policies and the Federal Acquisi-
19 tion Regulation, as well as the effectiveness of taxpayer
20 dollars.

21 “(d) MAJOR ACQUISITION PROGRAM DEFINED.—In
22 this section, the term ‘major acquisition program’ means
23 an acquisition program of the Department that is esti-
24 mated by the Secretary to require an eventual total ex-

1 penditure of at least \$300,000,000 (based on fiscal year
2 2017 constant dollars) over its life cycle **【cost】**.”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents in section 1(b) of the Homeland Security Act
5 of 2002 (Public Law 107–296) is amended by inserting
6 after the item relating to section 433 the following:

“Sec. 434. Border security technology program management.”.

7 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
8 OF APPROPRIATIONS.—No additional funds are author-
9 ized to be appropriated to carry out this section or the
10 amendment made by this section. This section and such
11 amendment shall be carried out using amounts otherwise
12 authorized for such purposes.

13 **SEC. 110. AUTHORITY TO ACQUIRE LEASEHOLDS.**

14 Notwithstanding any other provision of law, if the
15 Secretary determines that the acquisition of a leasehold
16 interest in real property and the construction or modifica-
17 tion of any facility on the leased property are necessary
18 to facilitate the implementation of this Act, the Secretary
19 may—

- 20 (1) acquire a leasehold interest; and
21 (2) construct or modify such facility.

1 **SEC. 111. NATIONAL GUARD SUPPORT TO SECURE THE**
2 **SOUTHERN BORDER AND REIMBURSEMENT**
3 **OF STATES FOR DEPLOYMENT OF THE NA-**
4 **TIONAL GUARD AT THE BORDER.**

5 (a) IN GENERAL.—With the approval of the Sec-
6 retary of Defense, the Governor of a State may order any
7 units or personnel of the National Guard of such State
8 to perform operations and missions under section 502(f)
9 of title 32, United States Code, along the Southern border
10 for the purposes of assisting U.S. Customs and Border
11 Protection in securing the Southern border.

12 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

13 (1) IN GENERAL.—National Guard units and
14 personnel deployed under subsection (a) may be as-
15 signed such operations and missions specified in sub-
16 section (c) as may be necessary to secure the South-
17 ern border.

18 (2) NATURE OF DUTY.—The duty of National
19 Guard personnel performing operations and missions
20 described in paragraph (1) shall be full-time duty
21 under title 32, United States Code.

22 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-
23 erations and missions assigned under subsection (b) shall
24 include the temporary authority—

25 (1) to construct fencing, including double-layer
26 and triple-layer fencing;

1 (2) to increase ground-based mobile surveillance
2 systems;

3 (3) to deploy additional unmanned aerial sys-
4 tems and manned aircraft sufficient to maintain
5 continuous surveillance of the Southern border;

6 (4) to deploy and provide the capability for
7 radio communications interoperability between U.S.
8 Customs and Border Protection and State, local,
9 and tribal law enforcement agencies;

10 (5) to construct checkpoints along the Southern
11 border to bridge the gap to long-term permanent
12 checkpoints; and

13 (6) to provide assistance to U.S. Customs and
14 Border Protection, particularly in rural, high-traf-
15 ficked areas, as designated by the Commissioner.

16 (d) MATERIEL AND LOGISTICAL SUPPORT.—The
17 Secretary of Defense shall deploy such materiel and equip-
18 ment and logistical support as may be necessary to ensure
19 success of the operations and missions conducted by the
20 National Guard under this section.

21 (e) EXCLUSION FROM NATIONAL GUARD PER-
22 SONNEL STRENGTH LIMITATIONS.—National Guard per-
23 sonnel deployed under subsection (a) shall not be included
24 in—

1 (1) the calculation to determine compliance
2 with limits on end strength for National Guard per-
3 sonnel; or

4 (2) limits on the number of National Guard
5 personnel that may be placed on active duty for
6 operational support under section 115 of title 10,
7 United States Code.

8 (f) REIMBURSEMENT REQUIRED.—

9 (1) IN GENERAL.—The Secretary of Defense
10 shall reimburse States for the cost of the deployment
11 of any units or personnel of the National Guard to
12 perform operations and missions in full-time State
13 Active Duty in support of a Southern border mis-
14 sion.

15 (2) LIMITATION.—The total amount of reim-
16 bursements under this section for any fiscal year
17 may not exceed \$35,000,000.

18 **SEC. 112. OPERATION PHALANX.**

19 (a) IN GENERAL.—The Secretary of Defense shall
20 provide assistance to U.S. Customs and Border Protection
21 for purposes of increasing ongoing efforts to secure the
22 Southern border.

23 (b) CONCURRENCE IN ASSISTANCE.—Assistance
24 under subsection (a) shall be provided only with the con-
25 currence of the Secretary of Homeland Security.

1 (c) TYPES OF ASSISTANCE AUTHORIZED.—The as-
2 sistance provided under subsection (a) may include the fol-
3 lowing:

4 (1) Deployment of manned aircraft, unmanned
5 aerial surveillance systems, and ground-based sur-
6 veillance systems to support continuous surveillance
7 of the Southern border.

8 (2) Intelligence analysis support.

9 (d) MATERIEL AND LOGISTICAL SUPPORT.—The
10 Secretary of Defense may deploy such materiel and equip-
11 ment and logistics support as is necessary to ensure the
12 effectiveness of assistance provided under subsection (a).

13 (e) FUNDING.—Of the amounts authorized to be ap-
14 propriated for the Department of Defense by this Act, the
15 Secretary of Defense may use not more than \$75,000,000
16 to provide assistance under this section.

17 (f) REPORTS.—

18 (1) IN GENERAL.—Not later than 90 days after
19 the date of the enactment of this Act, and annually
20 thereafter, the Secretary of Defense shall submit to
21 the congressional defense committees (as defined in
22 section 101(a)(16) of title 10, United States Code)
23 a report on any assistance provided under subsection
24 (a) during the period specified in paragraph (3).

1 (2) ELEMENTS.—Each report required by para-
2 graph (1) shall include, for the period specified in
3 paragraph (3), a description of—

4 (A) the assistance provided;

5 (B) the sources and amounts of funds used
6 to provide such assistance; and

7 (C) the amounts obligated to provide such
8 assistance.

9 (3) PERIOD SPECIFIED.—The period specified
10 in this paragraph is—

11 (A) in the case of the first report required
12 to be submitted by paragraph (1), the 90-day
13 period beginning on the date of the enactment
14 of this Act; and

15 (B) in the case of any subsequent report
16 required to be submitted by paragraph (1), the
17 calendar year for which the report is submitted.

18 **SEC. 113. MERIDA INITIATIVE.**

19 (a) FINDINGS.—Congress finds the following:

20 (1) Through the Merida Initiative, which was
21 launched in 2008, the governments of the United
22 States and Mexico have collaborated to combat orga-
23 nized crime, strengthen the rule of law, advance ju-
24 dicial reform, and protect human rights in Mexico,
25 including with respect to the involvement of security

1 forces in extrajudicial killings of civilians, the dis-
2 appearances of more than 23,000 individuals, and
3 the unresolved forced disappearance of 43 students
4 in Guerrero State in 2014.

5 (2) The Merida Initiative and related assistance
6 provided by the Department of Defense to Mexico
7 was originally intended to combat drug production
8 and trafficking and support anti-crime and rule of
9 law efforts in Mexico.

10 (3) Mexican-sourced heroin accounted for 79
11 percent of heroin seized by the United States in
12 2014 (up from 50 percent in 2012) and cultivation
13 of heroine in Mexico is rapidly increasing.

14 (4) Assistance to Mexico should focus on pro-
15 viding enhanced border security and judicial reform
16 and support for Mexico's drug crop eradication ef-
17 forts.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that assistance provided to Mexico by the Depart-
20 ment of State or the Department of Defense and any aid
21 related to the Merida Initiative should return to its origi-
22 nal focus and prioritize security, training, and acquisition
23 of equipment for Mexican security forces involved in drug
24 crop eradication efforts.

1 (c) ASSISTANCE FOR MEXICO.—The Secretary of
2 State and the Secretary of Defense shall provide assist-
3 ance to Mexico—

4 (1) to combat drug trafficking and related vio-
5 lence, organized crime, and corruption;

6 (2) to build a modern border security system
7 capable of preventing illegal migration;

8 (3) to support border security and cooperation
9 with United States law enforcement agencies on bor-
10 der incursions;

11 (4) to support judicial reform, institution build-
12 ing, and rule of law activities; and

13 (5) to provide for training and equipment for
14 Mexican security forces involved in drug crop eradi-
15 cation efforts.

16 (d) ALLOCATION OF FUNDS; REPORT.—

17 (1) IN GENERAL.—The Secretary of State may
18 not allocate 50 percent of the assistance authorized
19 to be appropriated to implement this section until
20 the Secretary submits in writing to the committees
21 specified in paragraph (3) a report that the Govern-
22 ment of Mexico is—

23 (A) significantly reducing illegal migration,
24 drug trafficking, and cross-border criminal ac-
25 tivities; and

1 (B) improving the transparency and ac-
2 countability of Federal police forces and work-
3 ing with state and municipal authorities to im-
4 prove the transparency and accountability of
5 state and municipal police forces.

6 (2) MATTERS TO INCLUDE.—The report re-
7 quired by paragraph (1) shall include a description
8 of—

9 (A) actions taken by the Government of
10 Mexico to address the matters described in sub-
11 paragraphs (A) and (B) of paragraph (1); and

12 (B) any instances in which the Secretary
13 determines that the actions taken by the Gov-
14 ernment of Mexico are inadequate to address
15 such matters.

16 (3) COMMITTEES SPECIFIED.—The committees
17 specified in this paragraph are—

18 (A) the Committee on Appropriations, the
19 Committee on Homeland Security and Govern-
20 mental Affairs, and the Committee on the Judi-
21 ciary of the Senate; and

22 (B) the Committee on Appropriations, the
23 Committee on Homeland Security, and the
24 Committee on the Judiciary of the House of
25 Representatives.

1 (e) NOTIFICATIONS.—Any assistance made available
2 by the Secretary of State under this section shall be sub-
3 ject to the notification procedures set forth in section
4 634A of the Foreign Assistance Act of 1961 (22 U.S.C.
5 2394–1) and the notification requirements of—

6 (1) the Committee on Homeland Security and
7 Governmental Affairs and the Committee on the Ju-
8 diciary of the Senate; and

9 (2) the Committee on Homeland Security and
10 the Committee on the Judiciary of the House of
11 Representatives.

12 (f) SPENDING PLAN.—

13 (1) IN GENERAL.—Not later than 45 days after
14 the date of the enactment of this Act, the Secretary
15 of State shall submit to the committees specified in
16 paragraph (2) a detailed spending plan for assist-
17 ance made available to Mexico under this section,
18 which shall include a strategy, developed after con-
19 sulting with relevant authorities of the Government
20 of Mexico, for combating drug trafficking and re-
21 lated violence and organized crime, and for anti-cor-
22 ruption and rule of law activities, with concrete
23 goals, actions to be taken, budget proposals, and a
24 description of anticipated results.

1 (2) COMMITTEES SPECIFIED.—The committees
2 specified in this paragraph are—

3 (A) the Committee on Appropriations, the
4 Committee on Foreign Relations, the Com-
5 mittee on Homeland Security and Govern-
6 mental Affairs, and the Committee on the Judi-
7 ciary of the Senate; and

8 (B) the Committee on Appropriations, the
9 Committee on Foreign Affairs, the Committee
10 on Homeland Security, and the Committee on
11 the Judiciary of the House of Representatives.

12 **SEC. 114. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
13 **DER SECURITY ON CERTAIN FEDERAL LAND.**

14 (a) PROHIBITION ON INTERFERENCE WITH U.S.
15 CUSTOMS AND BORDER PROTECTION.—

16 (1) IN GENERAL.—The Secretary concerned
17 shall not impede, prohibit, or restrict activities of
18 U.S. Customs and Border Protection on covered
19 Federal land to execute search and rescue operations
20 or to prevent all unlawful entries into the United
21 States, including entries by terrorists, other unlawful
22 aliens, instruments of terrorism, narcotics, and other
23 contraband through the Souther border or the
24 Northern border.

1 (2) APPLICABILITY.—The authority of U.S.
2 Customs and Border Protection to conduct activities
3 described in paragraph (1) on covered Federal land
4 applies without regard to whether a state of emer-
5 gency exists.

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

8 (1) IN GENERAL.—U.S. Customs and Border
9 Protection shall have immediate access to covered
10 Federal land for purposes of conducting the activi-
11 ties described in paragraph (2) on such land to pre-
12 vent all unlawful entries into the United States, in-
13 cluding entries by terrorists, other unlawful aliens,
14 instruments of terrorism, narcotics, and other con-
15 traband through the Southern border or the North-
16 ern border.

17 (2) ACTIVITIES DESCRIBED.—The activities de-
18 scribed in this paragraph are the following:

19 (A) Construction and maintenance of
20 roads.

21 (B) Construction and maintenance of bar-
22 riers.

23 (C) Use of vehicles to patrol and appre-
24 hend or rescue individuals.

1 (D) Installation, maintenance, and oper-
2 ation of communications and surveillance equip-
3 ment and sensors.

4 (E) Deployment of temporary tactical in-
5 frastructure.

6 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
7 ITY.—

8 (1) IN GENERAL.—The waiver issued by the
9 Secretary on April 1, 2008 (73 Fed. Reg. 18294)
10 under section 102(c)(1) of the Illegal Immigration
11 Reform and Immigrant Responsibility Act of 1996
12 (Public Law 104–208; 8 U.S.C. 1103 note) of the
13 provisions of law specified in paragraph (2) with re-
14 spect to certain sections of the Southern border and
15 the Northern border shall, notwithstanding any
16 other provision of law (including any termination
17 date applicable to the waiver), apply to all covered
18 Federal land for purposes of the activities of U.S.
19 Customs and Border Protection described in sub-
20 section (b)(2).

21 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
22 visions of law specified in this paragraph are the fol-
23 lowing:

24 (A) The Wilderness Act (16 U.S.C. 1131
25 et seq.).

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

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

5 (D) The National Historic Preservation
6 Act (16 U.S.C. 470 et seq.).

7 (E) Public Law 86–523 (16 U.S.C. 469 et
8 seq.);

9 (F) The Act of June 8, 1906 (commonly
10 known as the “Antiquities Act of 1906”; 16
11 U.S.C. 431 et seq.).

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

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

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

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

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

23 (L) Subchapter II of chapter 5 of title 5,
24 United States Code (commonly known as the
25 “Administrative Procedure Act”).

1 (M) Chapter 7 of title 5, United States
2 Code.

3 (N) The National Park Service Organic
4 Act (16 U.S.C. 1 et seq.).

5 (O) The National Park System General
6 Authorities Act of 1970 (16 U.S.C. 1a–1 et
7 seq.).

8 (P) Sections 401(7), 403, and 404 of the
9 National Parks and Recreation Act of 1978
10 (Public Law 95–625; 92 Stat. 3467).

11 (Q) The Arizona Desert Wilderness Act of
12 1990 (Public Law 101–628; 16 U.S.C. 1132
13 note).

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

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

1 (1) authority to restrict legal uses, such as
2 grazing, hunting, mining, or recreation or the use of
3 backcountry airstrips, on land under the jurisdiction
4 of the Secretary of the Interior or the Secretary of
5 Agriculture; or

6 (2) any additional authority to restrict legal ac-
7 cess to such land.

8 (e) EFFECT ON STATE AND PRIVATE LAND.—This
9 section shall—

10 (1) have no force or effect on State or private
11 lands; and

12 (2) not provide authority on or access to State
13 or private lands.

14 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
15 supersedes, replaces, negates, or diminishes treaties or
16 other agreements between the United States and Indian
17 tribes.

18 (g) DEFINITIONS.—In this section:

19 (1) COVERED FEDERAL LAND.—The term “cov-
20 ered Federal land” includes all land under the con-
21 trol of the Secretary concerned that is located within
22 100 miles of the Southern border or the Northern
23 border.

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

1 (A) with respect to land under the jurisdic-
2 tion of the Department of Agriculture, the Sec-
3 retary of Agriculture; and

4 (B) with respect to land under the jurisdic-
5 tion of the Department of the Interior, the Sec-
6 retary of the Interior.

7 **SEC. 115. LANDOWNER AND RANCHER SECURITY ENHANCE-**
8 **MENT.**

9 (a) BORDER COUNTY SHERIFF COMMISSION.—

10 (1) ESTABLISHMENT.—Congress encourages
11 the sheriffs of counties along the Southern border to
12 establish a commission consisting of United States
13 citizens residing within 80 miles of Mexico who have
14 been impacted by unlawful border crossings, includ-
15 ing landowners, ranchers, businesses owners, and
16 local law enforcement officers.

17 (2) FUNCTIONS.—If a Commission is estab-
18 lished pursuant to paragraph (1), Congress encour-
19 ages the Commission—

20 (A) to verify security claims and the border
21 security metrics established by the Department
22 of Homeland Security under section 1092 of
23 the National Defense Authorization Act for Fis-
24 cal Year 2017 (Public Law 114–238); and

1 (B) to submit recommendations to the Sec-
2 retary on ways to improve the security of rural
3 areas near the Southern border.

4 (3) USE OF RECOMMENDATIONS.—The Sec-
5 retary shall consider any recommendations received
6 pursuant to paragraph (2) when—

7 (A) revising border security metrics under
8 such section 1092; or

9 (B) implementing plans to improve border
10 security.

11 (b) COMMUNITY RESIDENT AGENTS.—The Commis-
12 sioner of U.S. Border Patrol shall designate certain Bor-
13 der Patrol agents stationed in remote communities near
14 the Southern border that experience high volumes of
15 human or illegal drug trafficking as “Community Resident
16 Agents”.

17 **SEC. 116. LIMITATION ON LAND OWNER’S LIABILITY.**

18 Section 287 of the Immigration and Nationality Act
19 (8 U.S.C. 1357) is amended by adding at the end the fol-
20 lowing:

21 “(i) INDEMNITY FOR ACTIONS OF LAW ENFORCE-
22 MENT OFFICERS.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of law, and subject to appropriations, an
25 owner of land located within 100 miles of the inter-

1 national land border of the United States may seek
2 reimbursement from the Department of Homeland
3 Security for any adverse final tort judgment for neg-
4 ligence (excluding attorneys’ fees and costs) author-
5 ized under Federal or State tort law, arising directly
6 from such border security activity if—

7 “(A) such owner has been found negligent
8 by a Federal or State court in any tort litiga-
9 tion;

10 “(B) such owner has not already been re-
11 imbursed for the final tort judgment, including
12 outstanding attorneys’ fees and costs;

13 “(C) such owner did not have or does not
14 have sufficient property insurance to cover the
15 judgment and has had an insurance claim for
16 such coverage denied; and

17 “(D) such tort action was brought as a di-
18 rect result of activity of law enforcement offi-
19 cers of the Department of Homeland Security,
20 acting in their official capacity, on the owner’s
21 land

22 “(2) DEFINITIONS.—In this subsection—

23 “(A) the term ‘land’ includes roads, water,
24 watercourses, and private ways, and buildings,

1 structures, machinery, and equipment that is
2 attached to real property; and

3 “(B) the term ‘owner’ includes the pos-
4 sessor of a fee interest, a tenant, a lessee, an
5 occupant, the possessor of any other interest in
6 land, and any person having a right to grant
7 permission to use the land.

8 “(3) EXCEPTIONS.—Nothing in this subsection
9 may be construed to limit landowner liability which
10 would otherwise exist for—

11 “(A) willful or malicious failure to guard
12 or warn against a known dangerous condition,
13 use, structure, or activity likely to cause harm;

14 “(B) maintaining an attractive nuisance;

15 “(C) gross negligence; or

16 “(D) direct interference with, or hindrance
17 of, any agent or officer of the Federal Govern-
18 ment who is authorized to enforce the immigra-
19 tion laws of the United States during—

20 “(i) a patrol of such landowner’s land;

21 or

22 “(ii) any action taken to apprehend or
23 detain any alien attempting to enter the
24 United States illegally or to evade execu-

1 tion of an arrest warrant for a violation of
2 any immigration law.

3 “(4) SAVINGS PROVISION.—Nothings in this
4 subsection may be construed to affect any right or
5 remedy available pursuant to chapter 171 or title
6 28, United States Code (commonly known as the
7 ‘Federal Tort Claims Act’).”.

8 **SEC. 117. AUTHORIZATION OF APPROPRIATIONS FOR HIGH**
9 **INTENSITY DRUG TRAFFICKING AREA PRO-**
10 **GRAM.**

11 Section 707(p)(5) of the Office of National Drug
12 Control Policy Reauthorization Act of 1998 (21 U.S.C.
13 1706(p)(5)) is amended by striking “for each of fiscal year
14 2011” and inserting “for each of the fiscal years 2018
15 through 2021”.

16 **SEC. 118. ERADICATION OF CARRIZO CANE AND SALT**
17 **CEDAR.**

18 (a) COMPREHENSIVE PLAN.—Not later than 60 days
19 after the date of the enactment of this Act, the Secretary
20 shall brief the relevant committees of Congress on the
21 comprehensive plan to eradicate carrizo cane, salt cedar,
22 and other related invasive plant species along the Rio
23 Grande River that impede the operations of U.S. Customs
24 and Border Protection in carrying out this title and a rec-

1 commendation of the resource requirements for executing
2 the comprehensive plan.

3 (b) IMPLEMENTATION.—Not later than 180 days
4 after the date of the enactment of this Act, the Secretary
5 shall, after coordinating with the heads of each relevant
6 Federal, State, and local agency, begin eradication of the
7 carrizo cane plant and any salt cedar along the Rio
8 Grande River.

9 **SEC. 119. EXEMPTION FROM GOVERNMENT CONTRACTING**
10 **AND HIRING RULES.**

11 (a) APPLICABILITY OF CERTAIN GOVERNMENT CON-
12 TRACTING RULES.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, in implementing this title—

15 (A) the requirement under section 3301 of
16 title 41, United States Code, to obtain a full
17 and open competition through the use of com-
18 petitive procedures shall not apply; and

19 (B) any executive agency entering into the
20 contract may use noncompetitive procedures in
21 accordance with section 3304 of such title.

22 (2) LIMITATIONS ON PROTESTS.—The deter-
23 mination of an executive agency under section 3304
24 of title 41, United States Code, to use noncompeti-

1 tive procedures shall not be subject to challenge by
2 protest to—

3 (A) the Comptroller General of the United
4 States under subchapter V of chapter 35 of title
5 31, United States Code; or

6 (B) the Court of Federal Claims under
7 section 1491 of title 28, United States Code.

8 (b) APPLICABILITY OF CERTAIN GOVERNMENT HIR-
9 ING RULES.—

10 (1) IN GENERAL.—Notwithstanding any other
11 provision of law, in implementing this title, the Sec-
12 retary and the Attorney General may appoint em-
13 ployees on a term, temporary limited, or part-time
14 basis without regard to—

15 (A) the number of such employees;

16 (B) the ratio between the number of such
17 employees and the number of permanent full-
18 time employees; and

19 (C) the duration of such employees' em-
20 ployment.

21 (2) RULE OF CONSTRUCTION.—Nothing in
22 chapter 71 of title 5, United States Code, shall af-
23 fect the authority of the Department or the Depart-
24 ment of Justice to hire employees under this title on
25 a temporary limited or part-time basis.

1 (c) LIMITATION ON COLLECTION OF FEES.—In im-
2 plementing programs authorized under this title, the Sec-
3 retary and the Attorney General may not collect fees in
4 excess of the amount necessary to defray the costs of such
5 programs.

6 (d) REPORTS.—The head of an executive agency en-
7 tering into a contract or hiring employees pursuant to au-
8 thority provided under subsection (a) or (b) shall—

9 (1) immediately submit written notification of
10 the use of such authority to the Committee on the
11 Judiciary of the Senate and the Committee on the
12 Judiciary of the House of Representatives; and

13 (2) submit to those committees a quarterly re-
14 port estimating amounts to be expended pursuant to
15 such authority.

16 (e) EXECUTIVE AGENCY DEFINED.—In this section,
17 the term “executive agency” has the meaning given that
18 term in section 133 of title 41, United States Code.

19 **Subtitle B—Personnel**

20 **PART I—INCREASES IN IMMIGRATION AND LAW**

21 **ENFORCEMENT PERSONNEL**

22 **SEC. 121. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-** 23 **TECTION AGENTS AND OFFICERS.**

24 (a) U.S. BORDER PATROL AGENTS.—In addition to
25 positions authorized before the date of the enactment of

1 this Act and any existing officer vacancies within U.S.
2 Customs and Border Protection as of such date, U.S. Bor-
3 der Patrol, by not later than September 30, 2018, shall
4 hire, train, and assign to duty **【sufficient agents to】** main-
5 tain an active duty presence of not fewer than 26,370 full-
6 time equivalent agents, subject to the availability of appro-
7 priations for such purpose.

8 (b) CBP OFFICERS.—In addition to positions author-
9 ized before the date of the enactment of this Act and any
10 existing officer vacancies within U.S. Customs and Border
11 Protection as of such date, the Secretary, by not later than
12 September 30, 2018, subject to the availability of appro-
13 priations for such purpose, shall hire, train, and assign
14 to duty—

15 (1) **【sufficient officers to】** maintain an active
16 duty presence of not fewer than 23,775 full-time
17 equivalent officers; and

18 (2) 350 full-time support staff distributed
19 among all United States ports of entry.

20 (c) AIR AND MARINE OPERATIONS.—In addition to
21 positions authorized before the date of the enactment of
22 this Act and any existing officer vacancies within U.S.
23 Customs and Border Protection as of such date, the Sec-
24 retary, by not later than September 30, 2018, subject to
25 the availability of appropriations for such purpose, shall

1 hire, train, and assign to duty [sufficient agents for] Air
2 and Marine Operations of U.S. Customs and Border Pro-
3 tection to maintain not fewer than 1,675 full-time equiva-
4 lent agents.

5 (d) PROGRESS TOWARDS COMPLETION OF HIRING.—
6 The Secretary shall make progress in increasing the num-
7 ber of agents and officers referred to in subsections (a)
8 through (c) during each of the fiscal years 2018 through
9 2021. Not later than one year after the date of the enact-
10 ment of this Act, and annually thereafter, the Secretary
11 shall submit a report to the Committee on Homeland Se-
12 curity and Governmental Affairs of the Senate and the
13 Committee on Homeland Security of the House of Rep-
14 resentatives that—

15 (1) details the Department’s implementation
16 plan to meet staff hiring authorization levels; and

17 (2) identifies the number of additional per-
18 sonnel assigned to duty at land ports of entry, clas-
19 sified by location.

20 (e) GAO REPORT.—If U.S. Customs and Border
21 Protection has not met the staffing authorizations re-
22 quired under this section, the Comptroller General of the
23 United States shall conduct a review of the reasons why
24 the authorization levels were not met.

1 **SEC. 122. U.S. CUSTOMS AND BORDER PROTECTION RETEN-**
2 **TION INCENTIVES.**

3 (a) RETENTION INCENTIVES.—

4 (1) IN GENERAL.—To the extent necessary for
5 U.S. Customs and Border Protection to retain quali-
6 fied officers and employees, and to the extent nec-
7 essary to meet the requirements set forth in section
8 121, the Commissioner may pay, with the approval
9 of the Secretary, a retention bonus to a covered
10 CBP employee who has been employed with U.S.
11 Customs and Border Protection for a period of
12 longer than two years, if the Commissioner deter-
13 mines that, in the absence of the retention bonus,
14 the covered CBP employee would be likely to leave—

15 (A) Federal service; or

16 (B) for a different position in Federal Gov-
17 ernment (other than another position in the De-
18 partment).

19 (2) WRITTEN AGREEMENT.—The payment of a
20 retention bonus to a covered CBP employee under
21 paragraph (1) is contingent upon the covered CBP
22 employee entering into an agreement in writing with
23 U.S. Customs and Border Protection to complete a
24 period of employment with U.S. Customs and Bor-
25 der Protection that exceeds 2 calendar years from

1 the date the agreement is signed. Such an agree-
2 ment shall include—

3 (A) the amount of the retention bonus; and

4 (B) the conditions under which the agree-
5 ment may be terminated before the required pe-
6 riod of service is completed and the effect of
7 such termination.

8 (3) CRITERIA.—When determining the amount
9 of a retention bonus paid to a covered CBP em-
10 ployee under paragraph (1), the Commissioner shall
11 consider—

12 (A) length of the Federal service and expe-
13 rience of the covered CBP employee;

14 (B) the salaries for law enforcement offi-
15 cers in other Federal agencies; and

16 (C) the costs of replacing the covered CBP
17 employee and training a new employee.

18 (4) AMOUNT OF BONUS.—A retention bonus
19 paid to a covered CBP employee under paragraph
20 (1) may not exceed an amount equal to 25 percent
21 of the **【annual?】** rate of basic pay of the covered
22 CBP employee. The Commissioner and the Secretary
23 shall approve the amount of a retention bonus paid
24 under paragraph (1).

1 (5) FORM OF PAYMENT.—A retention bonus
2 paid to a covered CBP employee under paragraph
3 (1) shall be paid in a single lump sum payment at
4 the end of the fiscal year in which the covered CBP
5 employee entered into an agreement under para-
6 graph (2).

7 (6) EXCLUSION OF RETENTION BONUS FROM
8 RATE OF PAY.—A retention bonus paid to a covered
9 CBP employee under paragraph (1) shall not be
10 considered part of the basic pay of the covered CBP
11 employee for any purpose.

12 (b) PILOT PROGRAM ON SPECIAL RATES OF PAY IN
13 COVERED AREAS.—

14 (1) IN GENERAL.—The Secretary may establish
15 a pilot program to assess the feasibility and advis-
16 ability of using special rates of pay for **hiring - do**
17 *you mean to limit the special rates of pay to covered*
18 *CBP employees who are not performing service as a*
19 *covered CBP employee on date of enactment?***】** cov-
20 ered CBP employees in covered areas to help meet
21 the requirements set forth in section 121.

22 (2) MAXIMUM AMOUNT.—The rate of basic pay
23 of a covered CBP employee paid a special rate of
24 pay under the pilot program may not exceed 125

1 percent of the otherwise applicable rate of basic pay
2 of the covered CBP employee.

3 (3) TERMINATION.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the pilot program shall ter-
6 minate on the date that is 2 years after the
7 date of the enactment of this Act.

8 (B) EXTENSION.—If the Secretary deter-
9 mines the pilot program is performing satisfac-
10 torily and there are metrics that prove its suc-
11 cess in meeting the requirements set forth in
12 **[(FY14 Omnibus)]/[section 121?]**, the Sec-
13 retary may extend the pilot program until the
14 date that is 4 years after the date of the enact-
15 ment of this Act.

16 (4) REPORT TO CONGRESS.—When the pilot
17 program terminates under subparagraph (A) or (B)
18 paragraph (3), as the case may be, the Commis-
19 sioner shall submit a report to the Committee on
20 Homeland Security and Governmental Affairs of the
21 Senate, the Committee on the Judiciary of the Sen-
22 ate, the Committee on Homeland Security of the
23 House of Representatives, and the Committee on the
24 Judiciary of the House of Representatives that de-
25 tails—

1 (A) the total amounts paid under the pilot
2 program to covered CBP employees; and

3 (B) the covered areas in which the pilot
4 program was used.

5 (5) DEFINITIONS.—In this subsection—

6 (A) the term “covered area” means a geo-
7 graphic area that the Secretary determines—

8 (i) is in a remote location; or

9 (ii) is an area for which it is difficult
10 to find full-time permanent covered CBP
11 employees, as compared to other ports of
12 entry or duty stations; and

13 (B) the term “pilot program” means the
14 pilot program established under paragraph (1).

15 (c) SALARIES.—

16 (1) IN GENERAL.—Section 101(b) of the En-
17 hanced Border Security and Visa Entry Reform Act
18 of 2002 (8 U.S.C. 1711(b)) is amended to read as
19 follows:

20 “(b) AUTHORIZATION OF APPROPRIATIONS FOR CBP
21 EMPLOYEES.—There are authorized to be appropriated to
22 U.S. Customs and Border Protection such sums as may
23 be necessary to increase, beginning January 1, 2018, the
24 annual rate of basic pay for U.S. Customs and Border

1 Protection employees who have completed at least 1 year
2 of service—

3 “(1) to the annual rate of basic pay payable for
4 positions at GS–12 of the General Schedule under
5 subchapter III of chapter 53 of title 5, United
6 States Code, for officers and agents who have been
7 paid at the annual rate of basic pay payable for a
8 position at GS–5, GS–6, GS–7, GS–8, or GS–9 of
9 the General Schedule;

10 “(2) to the annual rate of basic pay payable for
11 positions at GS–12, **【step 10 - others don’t address**
12 *the step. That seems to make it unclear whether it is*
13 *for step 1 or step 10 of the applicable level】*, GS–13,
14 or GS–14, step 1, respectively, of the General Sched-
15 ule, for supervisory officers and supervisory Border
16 Patrol agents who have been paid at an annual rate
17 of pay payable for positions at GS–10, GS–11, or
18 GS–12 of the General Schedule; and

19 “(3) to the annual rate of basic pay payable for
20 positions at GS–8, GS–9, or GS–10, respectively, of
21 the General Schedule, for assistants who have been
22 paid at an annual rate of pay payable for positions
23 at GS–5, GS–6, or GS–7 of the General Schedule.”.

24 (2) **HARDSHIP DUTY PAY.**—In addition to com-
25 pensation to which Border Patrol agents are other-

1 wise entitled, Border Patrol agents who are assigned
2 to rural, high-trafficked areas shall be entitled to re-
3 ceive hardship duty pay, in an amount determined
4 by the Commissioner, which may not exceed the rate
5 of special pay to which members of a uniformed
6 service are entitled under section 310 of title 37,
7 United States Code.

8 **SEC. 123. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS**
9 **ENFORCEMENT DETENTION OFFICERS.**

10 (a) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
11 MENT ENFORCEMENT AND REMOVAL OFFICERS.—The
12 Secretary shall increase the number of trained, full-time,
13 active duty U.S. Immigration and Customs Enforcement
14 [enforcement and removal officers to not fewer than
15 8,500] by September 30, 2021, to support detentions and
16 removal proceedings in detention facilities along the
17 Southern border.

18 (b) HOMELAND SECURITY INVESTIGATIONS SPECIAL
19 AGENTS.—The Director of U.S. Immigration and Cus-
20 toms Enforcement shall increase the number of trained,
21 full-time, active duty Homeland Security Investigations
22 special agents [by not fewer than 1,500 by September 30,
23 2021].

24 (c) BORDER ENFORCEMENT SECURITY TASK
25 FORCE.—The Director of U.S. Immigration and Customs

1 Enforcement shall assign not fewer than 500 Homeland
2 Security Investigations special agents to the Border En-
3 forcement Security Task Force Program established under
4 section 432 of the Homeland Security Act of 2002 (6
5 U.S.C. 240).

6 (d) U.S. IMMIGRATION AND CUSTOMS ENFORCE-
7 MENT INVESTIGATORS.—The Director of U.S. Immigra-
8 tion and Customs Enforcement shall increase the number
9 of U.S. Immigration and Customs Enforcement investiga-
10 tors [by not fewer than 1,000 by September 30, 2021].

11 **PART II—JUDICIAL RESOURCES**

12 **SEC. 131. OPERATION STREAMLINE AND JUDICIAL RE-**
13 **SOURCES FOR BORDER SECURITY.**

14 (a) OPERATION STREAMLINE.—The Secretary shall
15 refer all cases involving aliens who are subject to expedited
16 removal for entering the United States without inspection
17 and admission or parole and who are apprehended within
18 100 miles of the Southern border to the appropriate
19 United States Attorney for immediate prosecution under
20 section 275 or 276 of the Immigration and Nationality
21 Act (8 U.S.C. 1325 and 1326).

22 (b) BORDER CROSSING PROSECUTIONS.—

23 (1) IN GENERAL.—From amounts authorized to
24 be appropriated under paragraph (3), [funds shall
25 be available - *this is mixing authorization and actual*

1 *appropriations language. Maybe “Amounts appro-*
2 *priated pursuant to the authorization of appropria-*
3 *tions under paragraph (3) shall be used”?】—*

4 (A) to increase the number of criminal
5 prosecutions for unlawful border crossing in
6 each sector of the Southern border by not less
7 than 50 percent per day, as compared to the
8 average number of such prosecutions per day
9 during the 12-month period preceding the date
10 of the enactment of this Act, through increasing
11 funding available for—

12 (i) attorneys and administrative sup-
13 port staff in offices of United States attor-
14 neys;

15 (ii) support staff and interpreters in
16 court clerks’ offices;

17 (iii) pre-trial services;

18 (iv) activities of the 【Office of the
19 Federal Public Defender - *Federal Defender*
20 *Programs and Federal Community De-*
21 *fender Organization and payments to re-*
22 *tain appointed counsel under section 3006A*
23 *of title 18, United States Code?*】; and

24 (v) additional personnel, including
25 deputy United States marshals in the

1 United States Marshals Service to perform
2 intake, coordination, transportation, and
3 court security; and

4 (B) to reimburse Federal, State, local, and
5 tribal law enforcement agencies for any deten-
6 tion costs related to the border crossing pros-
7 ecutions carried out pursuant to subparagraph
8 (A).

9 (2) ADDITIONAL MAGISTRATE JUDGES TO AS-
10 SIST WITH INCREASED CASELOAD.—The chief judge
11 of each judicial district located within a sector of the
12 Southern border is authorized to appoint additional
13 full-time magistrate judges, who, consistent with the
14 Constitution and laws of the United States, shall
15 have the authority to hear cases and controversies in
16 the judicial district in which the magistrate judges
17 are appointed.

18 (3) AUTHORIZATION OF APPROPRIATIONS.—
19 There are authorized to be appropriated for each of
20 fiscal years 2018 through 2021 such sums as may
21 be necessary to carry out this subsection.

22 (c) ADDITIONAL PERMANENT DISTRICT COURT
23 JUDGESHIPS IN SOUTHERN BORDER STATES.—

24 (1) IN GENERAL.—The President shall appoint,
25 by and with the advice and consent of the Senate—

1 (A) 4 additional district judges for the dis-
2 trict of Arizona;

3 (B) 2 additional district judges for the
4 southern district of California;

5 (C) 4 additional district judges for the
6 western district of Texas; and

7 (D) 2 additional district judges for the
8 southern district of Texas.

9 (2) CONVERSIONS OF TEMPORARY DISTRICT
10 COURT JUDGESHIPS.—The judgeships for the dis-
11 trict of Arizona and the central district of California
12 authorized by section 312(c) of the 21st Century
13 Department of Justice Appropriations Authorization
14 Act (28 U.S.C. 133 note; Public Law 107–273), in
15 existence on the day before the date of the enact-
16 ment of this Act, shall be authorized under section
17 133 of title 28, United States Code, and the individ-
18 uals holding such judgeships on such day shall hold
19 office under section 133 of title 28, United States
20 Code, as amended by paragraph (3).

21 (3) TECHNICAL AND CONFORMING AMEND-
22 MENTS.—The table contained in section 133(a) of
23 title 28, United States Code, is amended—

24 (A) by striking the item relating to the dis-
25 trict of Arizona and inserting the following **Is**

1 *the number for Arizona correct? Currently it is*
 2 *12 judges. There are 4 additional appointments*
 3 *authorized under (1) and 1 temporary judgeship*
 4 *under section 312(c) that is converted under (2),*
 5 *so seems like it should be 17?】:*

“Arizona 19”;

6 (B) by striking the items relating to Cali-
 7 fornia and inserting the following **【***Are the*
 8 *numbers for Central and Southern correct? Cur-*
 9 *rently, they are 27 for Central and 13 for South-*
 10 *ern. The number for Central is the same, but you*
 11 *have a conversion of 1 temporary judgeship to be*
 12 *a permanent judgeship for Central under (2).*
 13 *Southern is increased by 4, but only 2 new ap-*
 14 *pointments are authorized under (1).】:*

“California:

Northern	14
Eastern	6
Central	27
Southern	17”; and

15 (C) by striking the items relating to Texas
 16 and inserting the following **【***Is the number for*
 17 *Eastern correct? The number went up by 3 from*
 18 *what is currently in effect, but no additional ap-*
 19 *pointments under (1) and no conversion under*
 20 *(2).】:*

“Texas:

Northern	12
Southern	21

Eastern	10
Western	17”.

1 (d) INCREASE IN FILING FEES.—

2 (1) IN GENERAL.—Section 1914(a) of title 28,
 3 United States Code, is amended by striking “\$350”
 4 and inserting “\$375”.

5 (2) EXPENDITURE LIMITATION.—Incremental
 6 amounts collected by reason of the enactment of
 7 paragraph (1) shall be deposited as offsetting re-
 8 ceipts in the special fund of the Treasury established
 9 under section 1931 of title 28, United States Code.
 10 Such amounts shall be available solely for the pur-
 11 pose of facilitating the processing of [civil cases - *as*
 12 *wanted?*], but only to the extent specifically appro-
 13 priated by an Act of Congress enacted after the date
 14 of the enactment of this Act.

15 (e) WHISTLEBLOWER PROTECTION.—

16 (1) IN GENERAL.—No officer, employee, agent,
 17 contractor, or subcontractor of the judicial branch
 18 may discharge, demote, threaten, suspend, harass, or
 19 in any other manner discriminate against an em-
 20 ployee in the terms and conditions of employment
 21 because of any lawful act done by the employee to
 22 provide information, cause information to be pro-
 23 vided, or otherwise assist in an investigation regard-
 24 ing any possible violation of Federal law or regula-

1 tion, or misconduct, by a judge, justice, or any other
2 employee in the judicial branch, which may assist in
3 the investigation of the possible violation or mis-
4 conduct.

5 (2) CIVIL ACTION.—An employee injured by a
6 violation of paragraph (1) may, in a civil action, ob-
7 tain appropriate relief.

8 **SEC. 132. REIMBURSEMENT TO STATE AND LOCAL PROS-**
9 **ECUTORS FOR FEDERALLY INITIATED, IMMI-**
10 **GRATION-RELATED CRIMINAL CASES.**

11 (a) IN GENERAL.—The Attorney General shall reim-
12 burse State, county, tribal, and municipal governments for
13 costs associated with the prosecution of federally initiated
14 criminal cases declined to be prosecuted by local offices
15 of the United States attorneys, including costs relating
16 pre-trial services, detention, clerical support, and public
17 defenders' services associated to such prosecution.

18 (b) EXCEPTION.—Reimbursement under subsection
19 (a) shall not be available, at the discretion of the Attorney
20 General, if the Attorney General determines that there is
21 reason to believe that the jurisdiction seeking reimburse-
22 ment has engaged in unlawful conduct in connection with
23 immigration-related apprehensions.

Subtitle C—Grants

2 SEC. 151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

3 Section 241(i) of the Immigration and Nationality
4 Act (8 U.S.C. 1231(i)) is amended—

5 (1) in paragraph (1), by inserting “or alien
6 with an unknown status” after “undocumented
7 criminal alien” each place it appears;

8 (2) by amending paragraph (3) to read as fol-
9 lows:

10 “(3) For purposes of this subsection:

11 “(A) The term ‘undocumented criminal
12 alien’ means an alien who—

13 “(i) has been charged with or con-
14 victed of a felony or two or more mis-
15 demeanors; and

16 “(ii)(I) entered the United States
17 without inspection or at any time or place
18 other than as designated by the Attorney
19 General;

20 “(II) was the subject of exclusion or
21 deportation proceedings at the time he or
22 she was taken into custody by the State or
23 a political subdivision of the State; or

24 “(III) was admitted as a non-
25 immigrant and at the time he or she was

1 taken into custody by the State or a polit-
2 ical subdivision of the State has failed to
3 maintain the nonimmigrant status in which
4 the alien was admitted or to which it was
5 changed under section 248, or to comply
6 with the conditions of any such status.

7 “(B) The term ‘alien with an unknown sta-
8 tus’ means an individual who has been incarcer-
9 ated by a Federal, State, or local law enforce-
10 ment entity and whose immigration status can-
11 not be definitively identified.”;

12 (3) in paragraph (4), by inserting “and aliens
13 with an unknown status” after “undocumented
14 criminal aliens” each place it appears;

15 (4) in paragraph (5)(C), by striking “2008
16 through 2011” and inserting “2018 through 2021”;
17 and

18 (5) by adding at the end the following:

19 “(7) Any funds provided to a State or a polit-
20 ical subdivision of a State as compensation under
21 paragraph (1)(A) for a fiscal year shall be distrib-
22 uted to such State or political subdivision not later
23 than 120 days after the last day of the period speci-
24 fied by the Attorney General for the submission of
25 requests under that paragraph for that fiscal year.”.

1 **SEC. 152. OPERATION STONEGARDEN.**

2 (a) IN GENERAL.—Title XX of the Homeland Secu-
3 rity Act of 2002 (6 U.S.C. 601 et. seq.) is amended by
4 adding at the end the following:

5 **“Subtitle C—Other Grant Programs**

6 **“SEC. 2031. OPERATION STONEGARDEN.**

7 “(a) ESTABLISHMENT.—There is established in the
8 Department a program to be known as ‘Operation
9 Stonegarden’. Under such program, the Secretary, acting
10 through the Administrator, shall make grants to law en-
11 forcement agencies that are eligible under subsection (b),
12 through relevant State administrative agencies, to enhance
13 border security in accordance with this section.

14 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
15 ceive a grant under this section, a law enforcement agency
16 shall—

17 “(1) be located in—

18 “(A) a State that shares an international
19 land border with Canada or Mexico; or

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

22 “(2) be involved in an active ongoing U.S. Cus-
23 toms and Border Protection operation coordinated
24 through a sector office.

1 “(c) PERMITTED USES.—A law enforcement agency
2 that receives a grant under this section may use the grant
3 for any of the following:

4 “(1) Procurement and maintenance of equip-
5 ment.

6 “(2) Payment of salaries and expenses of per-
7 sonnel, including costs of overtime and backfill, in
8 support of enhanced border law enforcement activi-
9 ties.

10 “(3) Any activity permitted under the Fiscal
11 Year 2015 Notice of Funding Opportunity for Oper-
12 ation Stonegarden of the Department.

13 “(4) Any other appropriate activity, as deter-
14 mined by the Administrator, in consultation with the
15 Commissioner of U.S. Customs and Border Protec-
16 tion.

17 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated \$110,000,000 for each
19 of fiscal years 2018 through 2021 for grants under this
20 section.

21 “(e) REPORT.—The Administrator shall submit an
22 annual report to the Committee on Homeland Security
23 and Governmental Affairs of the Senate and the Com-
24 mittee on Homeland Security of the House of Representa-
25 tives that contains information on the expenditure of

1 grants made under this section by each law enforcement
2 agency receiving such a grant.”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents in section 1(b) of the Homeland Security Act
5 of 2002 (Public Law 107–296) is amended by inserting
6 after the items relating to subtitle B of title XX the fol-
7 lowing:

“Subtitle C—Other Grant Programs.

“Sec. 2031. Operation Stonegarden.”.

8 **SEC. 153. SOUTHWEST BORDER REGION EMERGENCY COM-**
9 **MUNICATIONS GRANT.**

10 (a) IN GENERAL.—The Secretary, in consultation
11 with the Governors of the States in the Southwest border
12 region, shall establish a **[2-year]** *[NOTE: Does the pro-*
13 *gram operate for 2 years or are the grants for 2 years?]*
14 grant program, to be administered by the Secretary, to
15 improve emergency communications in the Southwest bor-
16 der region.

17 (b) ELIGIBILITY FOR GRANTS.—An individual is eli-
18 gible to receive a grant under this section if the individual
19 demonstrates that the individual—

20 (1) regularly resides or works in a State on the
21 Southern border; and

22 (2) is at greater risk of border violence due to
23 a lack of cellular service at the individual’s residence

1 or business and the individuals's proximity to the
2 Southern border.

3 (c) USE OF GRANTS.—Grants awarded under this
4 section may be used to purchase satellite telephone com-
5 munications systems and services that—

6 (1) can provide access to 9-1-1 service; and

7 (2) are equipped with receivers for the Global
8 Positioning System.

9 **SEC. 154. GRANTS FOR IDENTIFICATION OF VICTIMS OF**
10 **CROSS-BORDER HUMAN SMUGGLING.**

11 In addition to any funding for grants made available
12 to the Attorney General for State and local law enforce-
13 ment assistance, the Attorney General shall award grants
14 to county, municipal, or tribal governments in States
15 along the Southern border for costs, or reimbursement of
16 costs, associated with the transportation and processing
17 of unidentified alien remains that have been transferred
18 to an official medical examiner's office or an institution
19 of higher education in the area with the capacity to ana-
20 lyze human remains using forensic best practices where
21 such expenses may contribute to the collection and anal-
22 ysis of information pertaining to missing and unidentified
23 persons.

24 **SEC. 155. GRANT ACCOUNTABILITY.**

25 (a) DEFINITIONS.—In this section:

1 (1) AWARDING ENTITY.—The term “awarding
2 entity” means the Secretary, the Administrator of
3 the Federal Emergency Management Agency, the
4 Director of the National Science Foundation, or the
5 Chief of the Office of Citizenship and New Ameri-
6 cans.

7 (2) NONPROFIT ORGANIZATION.—The term
8 “nonprofit organization” means an organization that
9 is described in section 501(c)(3) of the Internal Rev-
10 enue Code of 1986 and is exempt from taxation
11 under section 501(a) of such Code.

12 (3) UNRESOLVED AUDIT FINDING.—The term
13 “unresolved audit finding” means a finding in a
14 final audit report conducted by the Inspector Gen-
15 eral of the Department, or the Inspector General for
16 the National Science Foundation for grants awarded
17 by the Director of the National Science Foundation,
18 that the audited grantee has utilized grant funds for
19 an unauthorized expenditure or otherwise unallow-
20 able cost that is not closed or resolved within 1 year
21 from the date when the final audit report is issued.

22 (b) ACCOUNTABILITY.—All grants awarded by an
23 awarding entity pursuant to this subtitle shall be subject
24 to the following accountability provisions:

25 (1) AUDIT REQUIREMENT.—

1 (A) AUDITS.—Beginning in the first fiscal
2 year beginning after the date of the enactment
3 of this Act, and in each fiscal year thereafter,
4 the Inspector General of the Department, or
5 the Inspector General for the National Science
6 Foundation for grants awarded by the Director
7 of the National Science Foundation, shall con-
8 duct audits of recipients of grants under this
9 subtitle *or any amendment made by this sub-*
10 *title?* to prevent waste, fraud, and abuse of
11 funds by grantees. Such Inspectors General
12 shall determine the appropriate number of
13 grantees to be audited each year.

14 (B) MANDATORY EXCLUSION.—A recipient
15 of grant funds under this subtitle that is found
16 to have an unresolved audit finding shall not be
17 eligible to receive grant funds under this sub-
18 title or any amendment made by this subtitle
19 during the first 2 fiscal years beginning after
20 the end of the 1-year period described in sub-
21 section (a)(3).

22 (C) PRIORITY.—In awarding a grant under
23 this subtitle or any amendment made by this
24 subtitle, the awarding entity shall give priority
25 to eligible applicants that did not have an unre-

1 solved audit finding during the three fiscal
2 years prior to the date the entity submitted the
3 application for such grant.

4 (D) REIMBURSEMENT.—If an entity is
5 awarded grant funds under this subtitle or any
6 amendment made by this subtitle during the pe-
7 riod of 2 fiscal years during which the entity is
8 barred from receiving grants under subpara-
9 graph (B), the awarding entity shall—

10 (i) deposit an amount equal to the
11 amount of the grant funds that were im-
12 properly awarded to such entity into the
13 general fund of the Treasury; and

14 (ii) seek to recover the costs of the re-
15 payment under clause (i) from such entity.

16 (2) NONPROFIT ORGANIZATION REQUIRE-
17 MENTS.—

18 (A) PROHIBITION.—An awarding entity
19 may not award a grant under this subtitle or
20 any amendment made by this subtitle to a non-
21 profit organization that holds money in offshore
22 accounts for the purpose of avoiding the tax im-
23 posed by section 511(a) of the Internal Revenue
24 Code of 1986.

1 (B) DISCLOSURE.—Each nonprofit organi-
2 zation that is awarded a grant under this sub-
3 title or any amendment made by this subtitle
4 and uses the procedures prescribed in regula-
5 tions to create a rebuttable presumption of rea-
6 sonableness for the compensation of its officers,
7 directors, trustees, and key employees, shall dis-
8 close to the awarding entity, in the application
9 for the grant, the process for determining such
10 compensation, including the independent per-
11 sons involved in reviewing and approving such
12 compensation, the comparability data used, and
13 contemporaneous substantiation of the delibera-
14 tion and decision. Upon request, the awarding
15 entity shall make the information disclosed
16 under this subparagraph available for public in-
17 spection.

18 (3) CONFERENCE EXPENDITURES.—

19 (A) LIMITATION.—No amounts authorized
20 to be appropriated to the Department or the
21 National Science Foundation for grant pro-
22 grams under this subtitle or any amendment
23 made by this subtitle may be used by an award-
24 ing entity [or by any individual or entity
25 awarded discretionary funds through a coopera-

1 tive agreement under this subtitle】 **【NOTE:**
2 *Does this apply?*】 to host or support any ex-
3 penditure for conferences that uses more than
4 \$20,000 in funds made available by the Depart-
5 ment or the National Science Foundation un-
6 less the Deputy Secretary for Homeland Secu-
7 rity, or the Deputy Director of the National
8 Science Foundation, or their designee, provides
9 prior written authorization that the funds may
10 be expended to host the conference.

11 (B) WRITTEN APPROVAL.—Written ap-
12 proval under subparagraph (A) shall include a
13 written estimate of all costs associated with the
14 conference, including the cost of all food, bev-
15 erages, audio-visual equipment, honoraria for
16 speakers, and entertainment.

17 (C) REPORT.—The Deputy Secretary of
18 Homeland Security and the Deputy Director of
19 the National Science Foundation shall submit
20 to Congress an annual report on all conference
21 expenditures approved under this paragraph.

22 (4) ANNUAL CERTIFICATION.—Beginning in the
23 first fiscal year beginning after the date of the en-
24 actment of this Act, each awarding entity shall sub-
25 mit to Congress a report—

1 (A) indicating whether—

2 (i) all audits issued by the Offices of
3 the Inspector General under paragraph (1)
4 have been completed and reviewed by the
5 appropriate individuals;

6 (ii) all mandatory exclusions required
7 under paragraph (1)(B) have been issued;
8 and

9 (iii) all reimbursements required
10 under paragraph (1)(D) have been made;
11 and

12 (B) including a list of any grant recipients
13 excluded under paragraph (1) from the previous
14 year.

15 **Subtitle D—Authorization of**
16 **Appropriations**

17 **SEC. 172. AUTHORIZATION OF APPROPRIATIONS.**

18 In addition to amounts otherwise authorized to be ap-
19 propriated, there are authorized to be appropriated for
20 each of the fiscal years 2018 through 2021,
21 \$5,000,000,000 to implement this title, of which—

22 (1) a total of \$170,000,000 shall be appro-
23 priated to the Department of State to implement
24 section 121, of which \$30,000,000 shall be used for

1 judicial reform, institution building, anti-corruption,
2 and rule of law activities; and

3 (2) a total of \$33,000,000 shall be appropriated
4 to the Department of Homeland Security to expand
5 the Border Security Deployment Project by placing
6 integrated surveillance and intrusion detection sys-
7 tems at land ports of entry along the Southern and
8 Northern borders by September 30, 2021.

9 **TITLE II—EMERGENCY PORT OF**
10 **ENTRY PERSONNEL AND IN-**
11 **FRASTRUCTURE FUNDING**

12 **SEC. 201. PORTS OF ENTRY INFRASTRUCTURE.**

13 (a) ADDITIONAL PORTS OF ENTRY.—

14 (1) AUTHORITY.—The Secretary may construct
15 new ports of entry along the Northern Border and
16 Southern Border.

17 (2) LOCATION.—The Secretary shall determine
18 the location of any new port of entry constructed
19 under the authority in paragraph (1).

20 (3) CONSULTATION.—

21 (A) REQUIREMENT TO CONSULT.—The
22 Secretary shall consult with the Secretary of
23 the Interior, the Secretary of Agriculture, the
24 Administrator of the General Services Adminis-
25 tration, and appropriate representatives of

1 State and local governments, and Indian tribes,
2 and property owners in the United States prior
3 to selecting a location for any new port con-
4 structed under the authority in paragraph (1).

5 (B) CONSIDERATIONS.—The purpose of
6 the consultations required by subparagraph (A)
7 shall be to minimize any negative impacts of
8 such a new port on the environment, culture,
9 commerce, and quality of life of the commu-
10 nities and residents located near such new port.

11 (b) EXPANSION OF HIGH-VOLUME SOUTHERN BOR-
12 DER PORTS OF ENTRY.—Not later than September 30,
13 2021, the Secretary shall expand the 10 ports of entry
14 along the Southern Border that are utilized by the highest
15 volume of vehicles, cargo, and pedestrians so that each
16 such port of entry has up to 6 additional primary and sec-
17 ondary inspection lanes.

18 **SEC. 202. SECURE COMMUNICATIONS.**

19 The Secretary shall ensure that each U.S. Customs
20 and Border Protection officer is equipped with a secure
21 2-way communication and satellite-enabled device, sup-
22 ported by system interoperability, that allows each such
23 officer to communicate—

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

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

3 **SEC. 203. BIOMETRIC EXIT DATA SYSTEM.**

4 (a) DEFINITIONS.—In this section:

5 (1) APPROPRIATE COMMITTEES OF CONGRESS
6 DEFINED.—The term “appropriate committees of
7 Congress” means—

8 (A) the Committee on Homeland Security
9 and Governmental Affairs and the Committee
10 on the Judiciary of the Senate; and

11 (B) the Committee on Homeland Security
12 and the Committee on the Judiciary of the
13 House of Representatives.

14 (2) BIOMETRIC EXIT DATA SYSTEM.—The term
15 “biometric exit data system” means the biometric
16 exit data system described in subsection (b).

17 (b) REQUIREMENTS FOR BIOMETRIC EXIT DATA
18 SYSTEM.—

19 (1) IN GENERAL.—The Secretary shall imple-
20 ment a biometric exit data system as described in
21 this section.

22 **[(2) PURPOSES.—The purposes of such biomet-**
23 **ric exit data system are the following:]**

24 **[(A) To improve the counterterrorism ef-**
25 **forts of the United States.]]**

1 **[(B) To identify aliens who have violated**
2 the terms of their visas or other permitted stay
3 in the United States.]

4 (3) REQUIREMENTS.—The biometric exit data
5 system shall—

6 (A) collect biometric data at the time of
7 departure from the United States for all cat-
8 egories of individuals who are required to pro-
9 vide such data, other than citizens of the
10 United States;

11 (B) match biometric information for an in-
12 dividual who is departing the United States
13 against the biometric information obtained for
14 the individual upon entry to the United States;

15 (C) complete the integrated biometric entry
16 and exit data system required under section
17 7208 of the Intelligence Reform and Terrorism
18 Prevention Act of 2004 (8 U.S.C. 1365b);

19 (D) leverage the infrastructure and data-
20 bases of the entry system established pursuant
21 to such section 7208; and

22 (E) be interoperable with, and allow
23 matching against, other Federal databases that
24 store biometrics of known or suspected terror-
25 ists **[including United States citizens?]**, and

1 aliens who have violated the terms of their visas
2 or other permitted stay in the United States.

3 (4) LIMITATION ON COLLECTION OF DATA.—

4 The Secretary may not require any [non-Federal
5 person/a person who is not an officer or employee of
6 the United States] to collect biometric data pursu-
7 ant to the biometric exit data system, except
8 through a contractual agreement.

9 [(5) MULTI-MODAL COLLECTION.—The Sec-
10 retary shall make every effort to collect biometric
11 data using additional modes of biometric tech-
12 nology.]

13 (c) IMPLEMENTATION PLAN.—

14 (1) REQUIREMENT.—Not later than 180 days
15 after the date of the enactment of this Act, the Sec-
16 retary shall prepare and submit to the appropriate
17 committees of Congress an implementation plan to
18 establish a biometric exit data system.

19 (2) CONSULTATION.—In preparing the imple-
20 mentation plan required by paragraph (1), the Sec-
21 retary shall consult with appropriate private sector
22 stakeholders. Such stakeholders shall include rep-
23 resentatives of the following:

24 (A) The trucking industry.

25 (B) The airport industry.

1 (C) The airline industry.

2 (D) The seaport industry.

3 (E) The travel industry.

4 (F) The biometric technology industry.

5 (3) CONTENT.—The implementation plan re-
6 quired by paragraph (1) shall include the following:

7 (A) An integrated master schedule and
8 cost estimate, including requirements and de-
9 sign, development, operational, and mainte-
10 nance costs, of a biometric exit data system
11 that takes into account prior reports on such
12 matters issued by the Government Account-
13 ability Office and the Department.

14 (B) An assessment of cost-effective staff-
15 ing and personnel requirements of such a sys-
16 tem that leverages existing resources of the De-
17 partment that takes into account prior reports
18 on such matters issued by the Government Ac-
19 countability Office and the Department.

20 (C) An assessment of the training pro-
21 grams necessary to establish such a system that
22 takes into account prior reports on such mat-
23 ters issued by the Government Accountability
24 Office and the Department.

1 (D) An assessment of how such a system
2 will affect wait times that takes into account
3 prior reports on such matter issued by the Gov-
4 ernment Accountability Office and the Depart-
5 ment.

6 (E) An assessment of the information the
7 Secretary received as part of the consultations
8 required by paragraph (2).

9 (F) An assessment of the manner in which
10 trusted traveler programs in existence as of the
11 date of the enactment of this Act may be im-
12 pacted by, or incorporated into, such a system.

13 (G) A description of metrics of success and
14 milestones for such a system.

15 (H) A description of identified risks and
16 mitigation strategies to address such risks.

17 (I) An assessment of systems that have
18 been implemented by foreign countries to collect
19 biometric data from individuals departing such
20 countries.

21 (d) DEMONSTRATION PROGRAM.—

22 (1) REQUIREMENT.—Not later than 1 year
23 after the date of the enactment of this Act, the Sec-
24 retary, in **【collaboration/consultation】** with the
25 stakeholders described in subsection (c)(2), shall es-

1 tablish a demonstration program to test the use of
2 a biometric exit data system on nonpedestrian traffic
3 departing the United States at not fewer than 3
4 land ports of entry that are utilized by significant
5 cross-border traffic, including at least 2 such ports
6 along the Southern Border and at least 1 such port
7 along the Northern Border.

8 (2) DURATION.—The demonstration program
9 required by paragraph (1) shall be implemented at
10 ports of entry for a period of 6 months.

11 (3) EVALUATION CRITERIA.—The demonstra-
12 tion program required by paragraph (1) may include
13 a consideration of more than 1 biometric mode, and
14 shall be implemented to determine the following:

15 (A) The manner in which nationwide im-
16 plementation of a biometric exit data system at
17 land ports of entry shall be carried out.

18 (B) The infrastructure required for such
19 implementation.

20 (C) The impacts of the demonstration pro-
21 gram on **legitimate/lawful** travel and trade.

22 (D) The effects of the demonstration pro-
23 gram on wait times, including processing times,
24 for nonpedestrian traffic departing the United
25 States.

1 (E) The effectiveness of the demonstration
2 program in combating terrorism.

3 (F) The effectiveness of the demonstration
4 program in identifying aliens who have violated
5 the terms of their visas or other permitted stay
6 in the United States.

7 (e) INITIAL IMPLEMENTATION.—Not later than 2
8 years after the date of the enactment of this Act, the Sec-
9 retary shall establish a biometric exit data system at—

10 (1) the 15 airports in the United States that
11 are utilized by the highest volume of international
12 air travel, as determined by available Federal flight
13 data;

14 (2) the 15 seaports in the United States that
15 are utilized by the highest volume of international
16 sea travel, as determined by available Federal travel
17 data; and

18 (3) the 15 land ports of entry in the United
19 States that are utilized by the highest volume of pe-
20 destrian crossings, as determined by available Fed-
21 eral border crossing data.

22 (f) OTHER IMPLEMENTATION.—

23 (1) LAND PORTS OF ENTRY.—

24 (A) VEHICLES AND CARGO.—

1 (i) IMPLEMENTATION.—Not later
2 than 5 years after the date of the enact-
3 ment of this Act, the Secretary shall imple-
4 ment a biometric exit data system at [all
5 land ports of entry] for all nonpedestrian
6 traffic departing the United States at such
7 ports.

8 (ii) EXTENSION.—The Secretary may
9 extend for a single 2-year period the date
10 specified in clause (i) if the Secretary cer-
11 tifies to the appropriate committees of
12 Congress that 1 or more of the [15 land
13 ports of entry in the United States that
14 are utilized by the highest volume of pedes-
15 trian crossings], as determined by avail-
16 able Federal border crossing data do not
17 have the physical infrastructure or charac-
18 teristics to install the systems necessary to
19 implement a biometric exit data system.

20 (B) PEDESTRIANS.—Not later than 5
21 years after the date of the enactment of this
22 Act, the Secretary shall implement a biometric
23 exit data system for pedestrians departing the
24 United States at a land port of entry.

1 (2) AT AIR AND SEA PORTS OF ENTRY.—Not
2 later than 5 years after the date of the enactment
3 of this Act, the Secretary shall implement a biomet-
4 ric exit data system at all air and sea ports of entry.

5 (g) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
6 TATION.—The Secretary, in consultation with the stake-
7 holders described in subsection (c)(2), shall ensure that
8 the collection of biometric data as part of a biometric exit
9 data system results in the [least possible/least prac-
10 ticable] disruption to the movement of people or cargo in
11 air, sea, or land transportation, while fulfilling the pur-
12 poses described in subsection (b)(2).

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

21 (i) REVIEW BY CONGRESS.—Not later than 90 days
22 after the date of the enactment of this Act, the Secretary
23 shall submit to the appropriate committees of Congress—

1 (1) a report on the recommendations of the
2 **[[Apex Air Entry/Exit Re-engineering program of**
3 **the Department]]**; and

4 (2) a report on the recommendations, of the
5 **[[U.S. Customs and Border Protection entry and**
6 **exit mobility program demonstrations]].** *[[Note: I*
7 *could not confirm the formal names of these two pro-*
8 *grams.]]*

9 **SEC. 204. SENSE OF CONGRESS ON COOPERATION BE-**
10 **TWEEN AGENCIES.**

11 (a) FINDING.—Congress recognizes that personnel
12 constraints exist at land ports of entry, particularly such
13 ports along the Southern Border, with regard to sanitary
14 and phytosanitary inspections for exported goods.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that, in the best interest of cross-border trade and
17 agribusiness—

18 (1) any lack of certified personnel for inspection
19 purposes at ports of entry should be addressed by
20 seeking cooperation between agencies and depart-
21 ments of the United States, whether in the form of
22 a memorandum of understanding or through a cer-
23 tification process, whereby additional existing agents
24 are authorized for additional hours to facilitate the
25 crossing and trade of perishable goods in a manner

1 consistent with rules of the Department of Agri-
2 culture; and

3 (2) **【dual certification】** should be available for
4 personnel who will assist more than 1 agency or de-
5 partment at land ports of entry, many of whom have
6 prior experience with other agencies, that will more
7 efficiently facilitate increased trade and commerce.
8 **【Note: Do you want to consider adding a definition**
9 **of "dual certification" here or otherwise clarifying**
10 **what that term means?】**

11 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

12 In addition to any amounts otherwise authorized to
13 be appropriated, there is authorized to be appropriated
14 \$1,000,000,000 for each of fiscal years 2018 through
15 2021 to carry out this title.

16 **TITLE III—DOMESTIC SECURITY**
17 **AND INTERIOR ENFORCEMENT**
18 **Subtitle A—General Matters**

19 **SEC. 301. ENDING CATCH AND RELEASE FOR REPEAT IMMI-**
20 **GRATION VIOLATORS AND CRIMINALS**
21 **ALIENS.**

22 (a) **ARRESTED ALIENS NOT YET CONVICTED.**—Sec-
23 tion 236 of the Immigration and Nationality Act (8 U.S.C.
24 1226) is amended by striking the section heading and sub-
25 section (a) and inserting the following:

1 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

2 “(a) ARREST, DETENTION, AND RELEASE.—

3 “(1) IN GENERAL.—The Secretary of Homeland
4 Security, on a warrant, may arrest an alien and de-
5 tain the alien pending a decision on whether the
6 alien is to be removed from the United States.

7 “(2) NATIONALS OF NONCONTIGUOUS COUN-
8 TRIES; FLIGHT RISKS; THREATS TO NATIONAL SECU-
9 RITY OR PUBLIC SAFETY.—Pending the decision on
10 whether the alien is to be removed from the United
11 States, the Secretary of Homeland Security shall
12 continue to detain any alien—

13 “(A) who—

14 “(i) is a national of a country other
15 than Canada or Mexico;

16 “(ii) has not been admitted or paroled
17 into the United States; and

18 “(iii) was apprehended within 100
19 miles of the international border of the
20 United States; or

21 “(B) who presents a flight risk or is a
22 threat to national security or public safety, as
23 determined by the Secretary of Homeland Secu-
24 rity.

25 “(3) OTHER ALIENS.—Except as provided in
26 subsection (c) and pending the decision on whether

1 the alien is to be removed from the United States,
2 the Secretary of Homeland Security—

3 “(A) may continue to detain the arrested
4 alien;

5 “(B) may release the alien on—

6 “(i) bond of at least \$5,000, with se-
7 curity approved by, and containing condi-
8 tions prescribed by, the Secretary of
9 Homeland Security; or

10 “(ii) conditional parole; but

11 “(C) may not provide the alien with work
12 authorization (including an ‘employment au-
13 thorized’ endorsement or other appropriate
14 work permit) or advance parole to travel outside
15 of the United States, unless the alien is lawfully
16 admitted for permanent residence or otherwise
17 would (without regard to removal proceedings)
18 be provided such authorization.”.

19 (b) MANDATORY DETENTION FOR ALIENS CON-
20 VICTED OF IMMIGRATION VIOLATIONS AND CRIMINAL
21 ALIENS.—Section 236(c)(2) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1226(c)(2)) is amended—

23 (1) by striking “The Attorney General” and in-
24 serting the following:

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Secretary of Homeland
3 Security”;

4 (2) by striking “the Attorney General” both
5 places such term appears and inserting “the Sec-
6 retary”; and

7 (3) by adding at the end the following:

8 “(B) ARRESTED BUT NOT CONVICTED
9 ALIENS.—

10 “(i) RELEASE FOR PROCEEDINGS.—
11 The Secretary of Homeland Security may
12 release any alien held pursuant to para-
13 graph (1)(F) to the appropriate authority
14 for any proceedings subsequent to the ar-
15 rest.

16 “(ii) RESUMPTION OF CUSTODY.—The
17 Secretary shall—

18 “(I) resume custody of the alien
19 during any period pending the final
20 disposition of any such proceedings
21 that the alien is not in the custody of
22 such appropriate authority; and

23 “(II) if the alien is not convicted
24 of the offense for which the alien was
25 arrested, the Secretary shall continue

1 to detain the alien until removal pro-
2 ceedings are completed.”.

3 **SEC. 302. DETERRING VISA OVERSTAYS.**

4 (a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
5 the Immigration and Nationality Act (8 U.S.C. 1184) is
6 amended by striking the section heading and subsection
7 (a)(1) and inserting the following:

8 **“SEC. 214. ADMISSION OF NONIMMIGRANTS.**

9 “(a) IN GENERAL.—

10 “(1) TERMS AND CONDITIONS OF ADMISSION.—

11 “(A) REGULATIONS.—Subject to subpara-
12 graphs (B) and (C), the admission to the
13 United States of any alien as a nonimmigrant
14 may be for such time and under such conditions
15 as the Secretary of Homeland Security may by
16 regulations prescribe, including when the Sec-
17 retary deems necessary the giving of a bond
18 with sufficient surety in such sum and con-
19 taining such conditions as the Secretary shall
20 prescribe, to insure that at the expiration of
21 such time or upon failure to maintain the sta-
22 tus under which the alien was admitted, or to
23 maintain any status subsequently acquired
24 under section 248, such alien will depart from
25 the United States.

1 “(B) GUAM OR CNMI VISA WAIVER NON-
2 IMMIGRANTS.—No alien admitted to Guam or
3 the Commonwealth of the Northern Mariana Is-
4 lands without a visa pursuant to section 212(l)
5 may be authorized to enter or stay in the
6 United States other than in Guam or the Com-
7 monwealth of the Northern Mariana Islands or
8 to remain in Guam or the Commonwealth of
9 the Northern Mariana Islands for a period ex-
10 ceeding 45 days from the date of admission to
11 Guam or the Commonwealth of the Northern
12 Mariana Islands.

13 “(C) VISA WAIVER PROGRAM NON-
14 IMMIGRANTS.—No alien admitted to the United
15 States without a visa pursuant to section 217
16 may be authorized to remain in the United
17 States as a nonimmigrant visitor for a period
18 exceeding 90 days from the date of admission.

19 “(D) BAR TO IMMIGRATION BENEFITS AND
20 TO CONTESTING REMOVAL.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), except for an alien admitted as a non-
23 immigrant under subparagraph (A) or (G)
24 of section 101(a)(15) or a NATO non-
25 immigrant, any alien who remains in the

1 United States beyond the period of stay
2 authorized by the Secretary of Homeland
3 Security without good cause is ineligible
4 for all immigration benefits or relief avail-
5 able under the immigration laws, other
6 than a request for asylum or relief from
7 removal based on a claim under the Con-
8 vention Against Torture and Other Cruel,
9 Inhuman or Degrading Treatment or Pun-
10 ishment, done at New York, December 10,
11 1984.

12 “(ii) EXCEPTION.—The Secretary
13 may, in the Secretary’s sole and
14 unreviewable discretion, find that a non-
15 immigrant is not subject to clause (i) if—

16 “(I) the alien was lawfully admit-
17 ted to the United States as a non-
18 immigrant;

19 “(II) the alien filed a nonfrivo-
20 lous application for change of status
21 to another nonimmigrant category or
22 extension of stay before the date of
23 expiration of the alien’s authorized pe-
24 riod of stay as a nonimmigrant;

1 “(III) the alien has not been em-
2 ployed without authorization in the
3 United States, before, or during pend-
4 ency of the application;

5 “(IV) the alien has not otherwise
6 violated the terms of the alien’s non-
7 immigrant status; and

8 “(V) the Secretary of Homeland
9 Security, in the Secretary’s sole and
10 unreviewable discretion, determines
11 that the alien is not a threat to na-
12 tional security or public safety.

13 “(iii) GOOD CAUSE DEFINED.—In
14 clause (i), the term ‘good cause’ means exi-
15 gent humanitarian circumstances such as
16 medical emergencies, **['Acts of God']**, or
17 force majeure.”.

18 (b) ISSUANCE OF NONIMMIGRANT VISAS.—Sub-
19 section (a) of section 221 of the Immigration and Nation-
20 ality Act (8 U.S.C. 1201(a)) is amended by adding at the
21 end the following:

22 “(3) NOTIFICATION OF BARS.—The Secretary of
23 State shall ensure that every application for a non-
24 immigrant visa includes a statement, to be executed under
25 penalty of perjury, notifying the alien who is seeking a

1 nonimmigrant visa of the bars to immigration relief and
2 to contesting removal under section 214(a)(1)(D).”.

3 *【Note: This requirement duplicates the same requirement*
4 *added by subsection (a) as section 214(a)(1)(D)(iv). It can*
5 *create confusion and future problems when an identical re-*
6 *quirement appears twice in a statute. Also, is it intended*
7 *that the alien executes the statement? If so, it would clarify*
8 *the language to state that.】*

9 **SEC. 303. INCREASE IN DETENTION BED SPACE.**

10 Section 5204 of the Intelligence Reform and Ter-
11 rorism Prevention Act of 2004 (Public Law 108–458; 118
12 Stat. 3734) is amended in subsection (a), by inserting
13 “and an additional 10,000, in each of the fiscal years 2018
14 through 2021,” after “8,000, in each of the fiscal years
15 2006 through 2010,”.

16 **SEC. 304. COLLECTION OF DNA FROM CRIMINAL AND DE-**
17 **TAINED ALIENS.**

18 (a) IN GENERAL.—Paragraph (1) of section 3(a) of
19 the DNA Analysis Backlog Elimination Act of 2000 (42
20 U.S.C. 14135a(a)(1)) is amended by adding at the end
21 the following:

22 “(C) The Secretary of Homeland Security
23 shall collect DNA samples from any alien, as
24 defined under section 101(a)(3) of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1101(a)(3)), who—

3 “(i) has been detained pursuant to
4 section 235(b)(1)(B)(iii)(IV), 236, 236A,
5 or 238 of that Act (8 U.S.C.
6 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and
7 1228); **[and/or]**

8 “(ii) is the subject of a final order of
9 removal under section 240 of that Act (8
10 U.S.C. 1229a) based on inadmissibility
11 under section 212(a)(2) of that Act (8
12 U.S.C. 1182(a)(2)) or being subject to re-
13 moval under section 237(a)(2) of that Act
14 (8 U.S.C. 1227(a)(2)).”.

15 (b) FURNISHING OF DNA SAMPLES FROM CRIMINAL
16 AND DETAINED ALIENS.—Subsection (b) of section 3 of
17 the DNA Analysis Backlog Elimination Act of 2000 (42
18 U.S.C. 14135a(b)) is amended by striking “or the proba-
19 tion office responsible (as applicable)” and inserting “the
20 probation office responsible, or the Secretary of Homeland
21 Security (as applicable)”.

22 **[SEC. 305. COLLECTION, USE, AND STORAGE OF BIOMETRIC**
23 **DATA.**

24 **[(a) COLLECTION AND USE OF BIOMETRIC INFOR-**
25 **MATION FOR IMMIGRATION PURPOSES.—]**

1 **[(1) COLLECTION.—**Any individual seeking an
2 immigration benefit, immigration employment au-
3 thorization, identity, or travel document, or request-
4 ing relief under any provision of the immigration
5 laws may be required to submit biometric informa-
6 tion to the Secretary.]

7 **[(2) USE.—**The Secretary **[may/shall]** use any
8 biometric information submitted under paragraph
9 (1) to conduct background and security checks,
10 verify an individual’s identity, adjudicate immigra-
11 tion and naturalization benefits, and perform other
12 functions related to administering and enforcing the
13 immigration laws.]

14 **[(b) BIOMETRIC INFORMATION SHARING.—]**

15 **[(1) IN GENERAL.—**Title II of the Enhanced
16 Border Security and Visa Entry Reform Act of 2002
17 (8 U.S.C. 1721 et seq.) is amended by adding at the
18 end the following:]

19 **["SEC. 205. BIOMETRIC INFORMATION SHARING.**

20 **["(a) BIOMETRIC INFORMATION SHARING WITH DE-**
21 **PARTMENT OF DEFENSE.—**The Secretary of Homeland
22 Security and Secretary of Defense shall exchange appro-
23 priate biometric information to determine or confirm the
24 identity of an individual and to assess whether the indi-
25 vidual is a threat to national security or public safety.

1 **【The information exchanged shall be used to compare bio-**
2 **metric data contained in the Department of Homeland Se-**
3 **curity and Department of Defense applicable systems to**
4 **determine if there is a match and, if there is a match to**
5 **relay that biometric information back to the requesting**
6 **agency.】】**

7 **【“(b) USE OF DEPARTMENT OF DEFENSE BIOMET-**
8 **RIC DATA BY THE DEPARTMENT OF STATE.—The Sec-**
9 **retary of State shall use biometric information from the**
10 **Secretary of Defense to track individuals who are—】**

11 **【“(1)(A) known or suspected terrorists; or】**

12 **【“(B) identified as a potential threat to na-**
13 **tional security; and】**

14 **【“(2) using an alias 【while traveling】.】**

15 **【“(c) BIOMETRIC INFORMATION SHARING WITH**
16 **MEXICO AND OTHER COUNTRIES FOR IDENTITY**
17 **VERIFICATION.—The Secretary of State, in coordination**
18 **with the Secretary of Homeland Security, shall engage**
19 **with the Government of Mexico and the governments of**
20 **other appropriate foreign countries located in Central**
21 **America or South American—】**

22 **【“(1) to discuss coordination on biometric in-**
23 **formation sharing between the United States and**
24 **such countries; and】**

1 【“(2) to enter into bilateral agreements that
2 provide for the sharing of such biometric informa-
3 tion with the Department of State, the Department
4 of Defense, and the Department of Homeland Secu-
5 rity to use in identifying individuals who are known
6 or suspected terrorists or potential threats to na-
7 tional security.”. *【Note: You may want to consider
8 having this material as stand alone material in this
9 bill, instead of an amendment to the Enhanced Bor-
10 der Security and Visa Reform Act of 2002.】】*

11 (2) TABLE OF CONTENTS AMENDMENT.—The
12 table of contents in section 1(b) of the Enhanced
13 Border Security and Visa Entry Reform Act of 2002
14 (Public Law 107–173; 116 Stat. 543) is amended by
15 adding after the item relating to section 204 the fol-
16 lowing:

“Sec. 205. Biometric information sharing.”.

17 **SEC. 306. ENDING ABUSE OF PAROLE AUTHORITY.**

18 Paragraph (5) of section 212(d) of the Immigration
19 and Nationality Act (8 U.S.C. 1182(d)(5)) is amended to
20 read as follows:

21 “(5) PAROLE AUTHORITY.—

22 “(A) IN GENERAL.—Except as provided in sub-
23 paragraph (C) or section 214(f), the Secretary of
24 Homeland Security, in the Secretary’s discretion,
25 may parole into the United States temporarily,

1 under such conditions as the Secretary may pre-
2 scribe and only on a case-by-case basis for urgent
3 humanitarian reasons or significant public benefit,
4 any alien applying for admission to the United
5 States.

6 “(B) PAROLE NOT AN ADMISSION.—Parole of
7 an alien under subparagraph (A) shall not be re-
8 garded as an admission of the alien to the United
9 States.

10 “(C) PROHIBITED USES OF PAROLE AUTHOR-
11 ITY.—

12 “(i) IN GENERAL.—The Secretary of
13 Homeland Security may not use the authority
14 under subparagraph (A) to parole in general-
15 ized categories of aliens or classes of aliens
16 based solely on nationality, presence, or resi-
17 dence in the United States, family relationships,
18 or any other criteria that would cover a broad
19 group of foreign nationals either inside or out-
20 side of the United States.

21 “(ii) ALIENS WHO ARE NATIONAL SECU-
22 RITY OR PUBLIC SAFETY THREATS.—

23 “(I) PROHIBITION ON PAROLE.—The
24 Secretary shall not parole in any alien who
25 the Secretary, in the Secretary’s sole [and

1 unreviewable】 discretion, determines is a
2 threat to national security or public safety,
3 except in extreme exigent circumstances.

4 “(II) EXTREME EXIGENT CIR-
5 CUMSTANCES DEFINED.—In subclause (I),
6 the term ‘extreme exigent circumstances’
7 means circumstances under which—

8 “(aa) the failure to parole the
9 alien would result in the immediate
10 loss of life due to a medical emer-
11 gency; or

12 “(bb) there is an urgent need for
13 the alien’s presence for law enforce-
14 ment or national security purposes.

15 “(D) TERMINATION OF PAROLE.—The Sec-
16 retary of Homeland Security shall determine when
17 the purpose of parole of an alien has been served
18 and, upon such determination, the alien 【shall re-
19 turn or be returned to the custody from which the
20 alien was paroled and thereafter the alien’s case
21 shall continue to be dealt with in the same manner
22 as that of any other applicant for admission to the
23 United States.】

24 “(E) LIMITATIONS ON USE OF ADVANCE PA-
25 ROLE.—

1 “(i) ADVANCE PAROLE DEFINED.—In this
2 subparagraph, the term ‘advance parole’ means
3 advance approval for an alien applying for ad-
4 mission to the United States to request at a
5 port of entry in the United States, a pre-inspec-
6 tion station, or a designated field office of the
7 Department of Homeland Security, to be pa-
8 roled into the United States under subpara-
9 graph (A).

10 “(ii) APPROVAL AND REVOCATION OF AD-
11 VANCE PAROLE.—The Secretary of Homeland
12 Security may, in the Secretary’s discretion,
13 grant an application for advance parole. Ap-
14 proval of an application for advance parole shall
15 not constitute a grant of parole under subpara-
16 graph (A), whether or not the alien is present
17 in the United States at the time of such ap-
18 proval. Admission to the United States based
19 on an approved application for advance parole
20 shall not be considered a parole for purposes of
21 qualifying for adjustment of status to lawful
22 permanent resident status in the United States
23 under section 245 or 245A.

24 “(iii) REVOCATION OF ADVANCE PA-
25 ROLE.—The Secretary may revoke a grant of

1 advance parole to an alien at any time, regard-
2 less of whether the alien is inside or outside the
3 United States.”.

4 **SEC. 307. STOP DANGEROUS SANCTUARY CITIES ACT.**

5 (a) SHORT TITLE.—This section may be cited as the
6 “Stop Dangerous Sanctuary Cities Act”.

7 (b) ENSURING THAT LOCAL AND FEDERAL LAW EN-
8 FORCEMENT OFFICERS MAY COOPERATE TO SAFEGUARD
9 OUR COMMUNITIES.—

10 (1) AUTHORITY TO COOPERATE WITH FEDERAL
11 OFFICIALS.—A State, a political subdivision of a
12 State, or an officer, employee, or agent of such State
13 or political subdivision that complies with a detainer
14 issued by the Department under section 236 [or
15 section 287] of the Immigration and Nationality Act
16 (8 U.S.C. 1226 and 1357)—

17 (A) shall be deemed to be acting as an
18 agent of the Department; and

19 (B) with regard to actions taken to comply
20 with the detainer, shall have all authority avail-
21 able to officers and employees of the Depart-
22 ment.

23 (2) LEGAL PROCEEDINGS.—In any legal pro-
24 ceeding brought against a State, a political subdivi-
25 sion of State, or an officer, employee, or agent of

1 such State or political subdivision, which challenges
2 the legality of the seizure or detention of an indi-
3 vidual pursuant to a detainer issued by the Depart-
4 ment under section 236 or 287 of the Immigration
5 and Nationality Act (8 U.S.C. 1226 and 1357)—

6 (A) no liability shall lie against the State
7 or political subdivision of a State for actions
8 taken in compliance with the detainer; and

9 (B) if the actions of the officer, employee,
10 or agent of the State or political subdivision
11 were taken in compliance with the detainer—

12 (i) the officer, employee, or agent
13 shall be deemed—

14 (I) to be an employee of the Fed-
15 eral Government and an investigative
16 or law enforcement officer; and

17 (II) to have been acting within
18 the scope of his or her employment
19 under section 1346(b) and chapter
20 171 of title 28, United States Code;

21 (ii) section 1346(b) of title 28, United
22 States Code, shall provide the exclusive
23 remedy for the plaintiff; and

24 (iii) the United States shall be sub-
25 stituted as defendant in the proceeding.

1 (3) RULE OF CONSTRUCTION.—Nothing in this
2 section may be construed to provide immunity to
3 any person who knowingly violates the civil or con-
4 stitutional rights of an individual.

5 (c) SANCTUARY JURISDICTION DEFINED.—

6 (1) IN GENERAL.—Except as provided under
7 subsection (2), for purposes of this Act, the term
8 “sanctuary jurisdiction” means any State or political
9 subdivision of a State that has in effect a statute,
10 ordinance, policy, or practice that prohibits or re-
11 stricts any government entity or official from—

12 (A) sending, receiving, maintaining, or ex-
13 changing with any Federal, State, or local gov-
14 ernment entity information regarding the citi-
15 zenship or immigration status (lawful or unlaw-
16 ful) of any individual; or

17 (B) complying with a request lawfully
18 made by the Department under section 236 or
19 287 of the Immigration and Nationality Act (8
20 U.S.C. 1226 and 1357) to comply with a de-
21 tainer for, or notify about the release of, an in-
22 dividual.

23 (2) EXCEPTION.—A State or political subdivi-
24 sion of a State shall not be deemed a sanctuary ju-
25 risdiction based solely on its having a policy whereby

1 its officials will not share information regarding, or
2 comply with a request made by the Department
3 under section 236 or 287 of the Immigration and
4 Nationality Act (8 U.S.C. 1226 and 1357) to comply
5 with a detainer regarding, an individual who comes
6 forward as a victim or a witness to a criminal of-
7 fense.

8 (d) SANCTUARY JURISDICTIONS INELIGIBLE FOR
9 CERTAIN FEDERAL FUNDS.—

10 (1) ECONOMIC DEVELOPMENT ADMINISTRATION
11 GRANTS.—

12 (A) GRANTS FOR PUBLIC WORKS AND ECO-
13 NOMIC DEVELOPMENT.—Section 201(b) of the
14 Public Works and Economic Development Act
15 of 1965 (42 U.S.C. 3141(b)) is amended—

16 (i) in paragraph (2), by striking
17 “and” at the end;

18 (ii) in paragraph (3), by striking the
19 period at the end and inserting “; and”;
20 and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(4) the area in which the project is to be car-
24 ried out is not a sanctuary jurisdiction (as defined

1 in subsection (c) of the Stop Dangerous Sanctuary
2 Cities Act).”.

3 (B) GRANTS FOR PLANNING AND ADMINIS-
4 TRATIVE EXPENSES.—Subsection (a) of section
5 203 of the Public Works and Economic Devel-
6 opment Act of 1965 (42 U.S.C. 3143(a)) is
7 amended by adding at the end the following: “A
8 sanctuary jurisdiction (as defined in subsection
9 (c) of the Stop Dangerous Sanctuary Cities
10 Act) may not be deemed an eligible recipient
11 under this subsection.”.

12 (C) SUPPLEMENTARY GRANTS.—Sub-
13 section (a) of section 205 of the Public Works
14 and Economic Development Act of 1965 (42
15 U.S.C. 3145(a)) is amended—

16 (i) in paragraph (2), by striking
17 “and” at the end;

18 (ii) in paragraph (3)(B), by striking
19 the period at the end and inserting “;
20 and”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(4) will be carried out in an area that does not
24 contain a sanctuary jurisdiction (as defined in sub-

1 section (c) of the Stop Dangerous Sanctuary Cities
2 Act).”.

3 (D) GRANTS FOR TRAINING, RESEARCH,
4 AND TECHNICAL ASSISTANCE.—Section 207 of
5 the Public Works and Economic Development
6 Act of 1965 (42 U.S.C. 3147) is amended by
7 adding at the end the following:

8 “(c) INELIGIBILITY OF SANCTUARY JURISDIC-
9 TIONS.—Grant funds under this section may not be used
10 to provide assistance to a sanctuary jurisdiction (as de-
11 fined in subsection (c) of the Stop Dangerous Sanctuary
12 Cities Act).”.

13 (2) COMMUNITY DEVELOPMENT BLOCK
14 GRANTS.—

15 (A) DEFINITIONS.—Subsection (a) of sec-
16 tion 102 of the Housing and Community Devel-
17 opment Act of 1974 (42 U.S.C. 5302(a)) is
18 amended by adding at the end the following:

19 “(25) The term ‘sanctuary jurisdiction’ has the
20 meaning given that term in subsection (c) of the
21 Stop Dangerous Sanctuary Cities Act.”.

22 (B) ELIGIBLE GRANTEES.—

23 (i) IN GENERAL.—Subsection (b) of
24 section 104 of the Housing and Commu-

1 nity Development Act of 1974 (42 U.S.C.
2 5304(b)) is amended—

3 (I) in paragraph (5), by striking
4 “and” at the end;

5 (II) by redesignating paragraph
6 (6) as paragraph (7); and

7 (III) by inserting after paragraph
8 (5) the following:

9 “(6) the grantee is not a sanctuary jurisdiction
10 and will not become a sanctuary jurisdiction during
11 the period for which the grantee receives a grant
12 under this title; and”.

13 (ii) PROTECTION OF INDIVIDUALS
14 AGAINST CRIME.—Section 104 of the
15 Housing and Community Development Act
16 of 1974 (42 U.S.C. 5304) is amended by
17 adding at the end the following:

18 “(n) PROTECTION OF INDIVIDUALS AGAINST
19 CRIME.—

20 “(1) IN GENERAL.—No funds authorized to be
21 appropriated to carry out this title may be obligated
22 or expended for any State or unit of general local
23 government that is a sanctuary jurisdiction.

24 “(2) RETURNED AMOUNTS.—

1 “(A) STATE.—If a State is a sanctuary ju-
2 risdiction during the period for which it receives
3 amounts under this title, the Secretary—

4 “(i) shall direct the State to imme-
5 diately return to the Secretary any such
6 amounts that the State received for that
7 period; and

8 “(ii) shall reallocate amounts returned
9 under clause (i) for grants under this title
10 to other States that are not sanctuary ju-
11 risdictions.

12 “(B) UNIT OF GENERAL LOCAL GOVERN-
13 MENT.—If a unit of general local government is
14 a sanctuary jurisdiction during the period for
15 which it receives amounts under this title, any
16 such amounts that the unit of general local gov-
17 ernment received for that period—

18 “(i) in the case of a unit of general
19 local government that is not in a non-
20 entitlement area, shall be returned to the
21 Secretary for grants under this title to
22 States and other units of general local gov-
23 ernment that are not sanctuary jurisdic-
24 tions; and

1 “(ii) in the case of a unit of general
2 local government that is in a nonentitle-
3 ment area, shall be returned to the Gov-
4 ernor of the State for grants under this
5 title to other units of general local govern-
6 ment in the State that are not sanctuary
7 jurisdictions.

8 “(C) REALLOCATION RULES.—In reallo-
9 cating amounts under subparagraphs (A) and
10 (B), the Secretary—

11 “(i) shall apply the relevant allocation
12 formula under subsection (b), with all
13 sanctuary jurisdictions excluded; and

14 “(ii) shall not be subject to the rules
15 for reallocation under subsection (c).”.

16 【(e) EFFECTIVE DATE.—This section and the
17 amendments made by this section shall take effect on the
18 date of the enactment of this Act.】

19 **SEC. 308. REINSTATEMENT OF THE SECURE COMMUNITIES**
20 **PROGRAM.**

21 (a) IN GENERAL.—

22 (1) REQUIREMENT TO REINSTATE AND EX-
23 PAND.—The Secretary shall reinstate and expand
24 the Secure Communities program immigration en-

1 enforcement program administered by U.S. Immigra-
2 tion and Customs Enforcement from 2008 to 2014.

3 (2) RESOURCES AND PERSONNEL.—In carrying
4 out the requirement of paragraph (1), the Secretary
5 shall—

6 (A) **deploy interoperability on a nation-**
7 **wide basis;** and

8 (B) provide U.S. Immigration and Cus-
9 toms Enforcement with the resources and per-
10 sonnel needed—

11 (i) to collect biometric and biographic
12 information on every individual who is ar-
13 rested and taken into custody **in the**
14 **United States**; and

15 (ii) to check such information against
16 immigration and other databases and
17 records of the Department and of other
18 appropriate entities.

19 (b) VICTIMS OF CRIME, WITNESSES TO CRIME, AND
20 INDIVIDUALS PURSUING LEGITIMATE CIVIL RIGHTS COM-
21 PLAINTS.—The Secretary shall ensure that U.S. Immigra-
22 tion and Customs Enforcement officers—

23 (1) are trained on identifying potential victims
24 of crime and witnesses to crime; and

(2) use discretion, on a case-by-case basis, in making detention and enforcement decisions for potential victims of crime and witnesses to crime.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$150,000,000 to carry out this section.

7 **Subtitle B—Protecting Children**
8 **and America’s Homeland Act of**
9 **2017**

10 **SEC. 310. SHORT TITLE.**

11 This subtitle may be cited as the “Protecting Chil-
12 dren and America’s Homeland Act of 2017”.

13 SEC. 311. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-
14 DREN.

Section 235(a) of the William Wilberforce Trafficking
Victims Protection Reauthorization Act of 2008 (8 U.S.C.
1232(a)) is amended—

18 (1) in paragraph (2)—

19 (A) by striking the paragraph heading and
20 inserting “RULES FOR UNACCOMPANIED ALIEN
21 CHILDREN.—”;

(B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a national or habitual resident of a country that is contiguous with the United States [shall be

1 treated in accordance with subparagraph (B)】”
2 and “inserting 【shall be treated in accordance
3 with subparagraph (B) or subsection (b), as ap-
4 propriate】”; and

5 (C) in subparagraph (C)—

6 (i) by striking the subparagraph head-
7 ing and inserting “AGREEMENTS WITH
8 FOREIGN COUNTRIES.—”; and

9 (ii) in the matter preceding clause (i),
10 by striking “countries contiguous to the
11 United States” and inserting “Canada, El
12 Salvador, Guatemala, Honduras, Mexico,
13 and any other foreign country that the
14 Secretary determines appropriate”;

15 (2) by redesignating paragraphs 【(3)】, (4), and
16 (5) as paragraphs 【(4)】, (5), and (6), respectively;

17 (3) inserting after paragraph (2) the following:

18 “(3) MANDATORY EXPEDITED REMOVAL OF
19 CRIMINALS AND GANG MEMBERS.—Notwithstanding
20 any other provision of law, the Secretary of Home-
21 land Security shall place an unaccompanied alien
22 child in a proceeding in accordance with section 235
23 of the Immigration and Nationality Act (8 U.S.C.
24 1225) if, the Secretary determines or has reason to
25 believe the alien—

1 “(A) has been convicted of any offense car-
2 rying a maximum term of imprisonment of
3 more than 180 days;

4 “(B) has been convicted of an offense
5 which involved—

6 “(i) domestic violence (as defined in
7 section 40002(a) of the Violence Against
8 Women Act of 1994 (42 U.S.C. 13925(a));

9 “(ii) child abuse and neglect (as de-
10 fined in section 40002(a) of the Violence
11 Against Women Act of 1994 (42 U.S.C.
12 13925(a));

13 “(iii) assault resulting in bodily injury
14 (as defined in section 2266 of title 18,
15 United States Code);

16 “(iv) the violation of a protection
17 order (as defined in section 2266 of title
18 18, United States Code);

19 “(v) driving while intoxicated (as de-
20 fined in section 164 of title 23, United
21 States Code); or

22 “(vi) any offense under foreign law,
23 except for a purely political offense, which,
24 if the offense had been committed in the
25 United States, would render the alien inad-

1 missible under section 212(a) of the Immi-
2 gration and Nationality Act (8 U.S.C.
3 1182(a));

4 “(C) has been convicted of more than 1
5 criminal offense (other than minor traffic of-
6 fenses);

7 “(D) has engaged in, is engaged in, or is
8 likely to engage after entry in any terrorist ac-
9 tivity (as defined in section 212(a)(3)(B)(iii) of
10 the Immigration and Nationality Act (8 U.S.C.
11 1182(a)(3)(B)(iii)), or intends to participate or
12 has participated in the activities of a foreign
13 terrorist organization (as designated under sec-
14 tion 219 of the Immigration and Nationality
15 Act (8 U.S.C. 1189));

16 “(E) is or was a member of a criminal
17 gang (as defined in paragraph (53) of section
18 101(a) of the Immigration and Nationality Act
19 (8 U.S.C. 1101(a));

20 “(F) provided materially false, fictitious, or
21 fraudulent information regarding age or iden-
22 tity to the United States Government with the
23 intent to wrongfully be classified as an unac-
24 companied alien child; or

1 “(G) has entered the United States more
2 than 1 time in violation of section 275(a) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1325(a)), knowing that the entry was unlaw-
5 ful.”;

6 **[(4) in paragraph (4), as redesignated by para-**
7 **graph (2), by striking “not described in paragraph**
8 **(2)(A)” and inserting “not treated in accordance**
9 **with paragraph (2)(B)”]**

10 (5) in subparagraph (D) of paragraph (6), as
11 redesignated by paragraph (2)—

12 (A) by striking the subparagraph heading
13 and inserting “**EXPEDITED DUE PROCESS AND**
14 **SCREENING FOR UNACCOMPANIED ALIEN CHIL-**
15 **DREN.—”**;

16 (B) in the matter preceding clause (i), by
17 striking “, except for an unaccompanied alien
18 child from a contiguous country subject to the
19 exceptions under subsection (a)(2), shall be—”
20 and inserting “who meets the criteria listed in
21 paragraph (2)(A) **[and who is not treated in**
22 **accordance with paragraph (2)(B)]—”**;

23 (C) by striking clause (i) and inserting the
24 following:

1 “(i) shall be placed in a proceeding in
2 accordance with section 235B of the Immi-
3 gration and Nationality Act, which shall
4 commence not later than 7 days after the
5 screening of an unaccompanied alien child
6 described in paragraph (5);”;

7 (D) by redesignating clauses (ii) and (iii)
8 as clauses (iii) and (iv), respectively;

9 (E) by inserting after clause (i) the fol-
10 lowing:

11 “(ii) may not be placed in the custody
12 of a nongovernmental sponsor or otherwise
13 released from the immediate custody of the
14 United States Government until the child
15 is repatriated unless the child—

16 “(I) is the subject of an order
17 under section 235B(e)(1) of the Im-
18 migration and Nationality Act; and

19 “(II) is placed or released in ac-
20 cordance with subsection (c)(2)(C) of
21 this section.”;

22 (F) in clause (iii), as redesignated, by in-
23 serting “is” before “eligible”; and

24 (G) in clause (iv), as redesignated, by in-
25 serting “shall be” before “provided”.

1 **SEC. 312. EXPEDITED DUE PROCESS AND SCREENING FOR**
2 **UNACCOMPANIED ALIEN CHILDREN.**

3 (a) HUMANE AND EXPEDITED INSPECTION AND
4 SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—

5 (1) IN GENERAL.—Chapter 4 of title II of the
6 Immigration and Nationality Act (8 U.S.C. 1221 et
7 seq.) is amended by inserting after section 235A the
8 following:

9 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
10 **SCREENING FOR UNACCOMPANIED ALIEN**
11 **CHILDREN.**

12 “(a) ASYLUM OFFICER DEFINED.—In this section,
13 the term ‘asylum officer’ means an immigration officer
14 who—

15 “(1) has had professional training in country
16 conditions, asylum law, and interview techniques
17 comparable to that provided to full-time adjudicators
18 of applications under section 208; and

19 “(2) is supervised by an officer who—

20 “(A) meets the condition described in
21 paragraph (1); and

22 “(B) has had substantial experience [adju-
23 dicating asylum applications/adjudicating appli-
24 cations under section 208].

25 “(b) PROCEEDING.—

1 “(1) IN GENERAL.—Not later than 7 days after
2 the screening of an unaccompanied alien child under
3 section 235(a)(5) of the William Wilberforce Traf-
4 ficking Victims Protection Reauthorization Act of
5 2008 (8 U.S.C. 1232(a)(5)), an immigration judge
6 shall conduct and conclude a proceeding to inspect,
7 screen, and determine the status of the unaccom-
8 panied alien child who is an applicant for admission
9 to the United States.

10 “(2) TIME LIMIT.—Not later than 72 hours
11 after the conclusion of a proceeding with respect to
12 an unaccompanied alien child under this section, the
13 immigration judge who conducted such proceeding
14 shall issue an order pursuant to subsection (e).

15 “(c) CONDUCT OF PROCEEDING.—

16 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
17 The immigration judge conducting a proceeding
18 under this section—

19 “(A) shall administer oaths, receive evi-
20 dence, and interrogate, examine, and cross-ex-
21 amine the unaccompanied alien child and any
22 witnesses;

23 “(B) may issue subpoenas for the attend-
24 ance of witnesses and presentation of evidence;

1 “(C) is authorized to sanction by civil
2 money penalty any action (or inaction) in con-
3 tempt of the judge’s proper exercise of author-
4 ity under this Act; and

5 “(D) shall determine whether the unac-
6 companied alien child meets any of the criteria
7 set out in subparagraphs (A) through (G) of
8 paragraph (3) of section 235(a) of the William
9 Wilberforce Trafficking Victims Protection Re-
10 authorization Act of 2008 (8 U.S.C. 1232(a)),
11 and if so, order the alien removed under sub-
12 section (e)(2) of this section.

13 “(2) FORM OF PROCEEDING.—A proceeding
14 under this section may take place—

15 “(A) in person;

16 “(B) at a location agreed to by the parties,
17 in the absence of the unaccompanied alien child;

18 “(C) through video conference; or

19 “(D) through telephone conference.

20 “(3) PRESENCE OF ALIEN.—If it is impracti-
21 cable by reason of the mental incompetency of the
22 unaccompanied alien child for the alien to be present
23 at the proceeding, the Attorney General shall pre-
24 scribe safeguards to protect the rights and privileges
25 of the alien.

1 “(4) RIGHTS OF THE ALIEN.—In a proceeding
2 under this section—

3 “(A) the unaccompanied alien child shall
4 be given the privilege of being represented, at
5 no expense to the Government, by counsel of
6 the alien’s choosing who is authorized to prac-
7 tice in the proceedings;

8 “(B) the alien shall be given a reasonable
9 opportunity—

10 “(i) to examine the evidence against
11 the alien;

12 “(ii) to present evidence on the alien’s
13 own behalf; and

14 “(iii) to cross-examine witnesses pre-
15 sented by the Government;

16 “(C) the rights set forth in subparagraph
17 (B) shall not entitle the alien—

18 “(i) to examine such national security
19 information as the Government may prof-
20 fer in opposition to the alien’s admission to
21 the United States; or

22 “(ii) to an application by the alien for
23 discretionary relief under this Act; and

1 “(D) a complete record shall be kept of all
2 testimony and evidence produced at the pro-
3 ceeding.

4 “(5) WITHDRAWAL OF APPLICATION FOR AD-
5 MISSION.—An unaccompanied alien child applying
6 for admission to the United States may, and at any
7 time prior to the issuance of a final order of re-
8 moval, be permitted to withdraw the application and
9 immediately be returned to the alien’s country of na-
10 tionality or country of last habitual residence.

11 “(6) CONSEQUENCES OF FAILURE TO AP-
12 PEAR.—An unaccompanied alien child who does not
13 attend a proceeding under this section, shall be or-
14 dered removed, except under exceptional cir-
15 cumstances where the alien’s absence is the fault of
16 the Government, a medical emergency, or an act of
17 nature.

18 “(d) DECISION AND BURDEN OF PROOF.—

19 “(1) DECISION.—

20 “(A) IN GENERAL.—At the conclusion of a
21 proceeding under this section, the immigration
22 judge shall determine whether an unaccom-
23 panied alien child is likely to be—

24 “(i) admissible to the United States;

25 or

1 “(ii) eligible for any form of relief
2 from removal under this Act.

3 “(B) EVIDENCE.—The determination of
4 the immigration judge under subparagraph (A)
5 shall be based only on the evidence produced at
6 the hearing.

7 “(2) BURDEN OF PROOF.—

8 “(A) IN GENERAL.—In a proceeding under
9 this section, an unaccompanied alien child who
10 is an applicant for admission has the burden of
11 establishing, by a preponderance of the evi-
12 dence, that the alien—

13 “(i) is likely to be entitled to be law-
14 fully admitted to the United States or eli-
15 gible for any form of relief from removal
16 under this Act; or

17 “(ii) is lawfully present in the United
18 States pursuant to a prior admission.

19 “(B) ACCESS TO DOCUMENTS.—In meeting
20 the burden of proof under subparagraph (A)(ii),
21 the alien shall be given access to—

22 “(i) the alien’s visa or other entry
23 document, if any; and

24 “(ii) any other records and docu-
25 ments, not considered by the Attorney

1 General to be confidential, pertaining to
2 the alien’s admission or presence in the
3 United States.

4 “(e) ORDERS.—

5 “(1) PLACEMENT IN FURTHER PRO-
6 CEEDINGS.—If an immigration judge determines
7 that the unaccompanied alien child has met the bur-
8 den of proof under subsection (d)(2), the immigra-
9 tion judge shall—

10 “(A) order the alien to be placed in further
11 proceedings in accordance with section 240; and

12 “(B) order the Secretary of Homeland Se-
13 curity to place the alien on the U.S. Immigra-
14 tion and Customs Enforcement detained docket
15 for purposes of carrying out such proceedings.

16 “(2) ORDERS OF REMOVAL.—If an immigration
17 judge determines that the unaccompanied alien child
18 has not met the burden of proof required under sub-
19 section (d)(2), the judge shall order the alien re-
20 moved from the United States without further hear-
21 ing or review unless the alien claims—

22 “(A) an intention to apply for asylum
23 under section 208; or

24 “(B) a fear of persecution.

1 “(3) CLAIMS FOR ASYLUM.—If an unaccom-
2 panied alien child described in paragraph (2) claims
3 an intention to apply for asylum under section 208
4 or a fear of persecution, the immigration judge shall
5 order the alien referred for an interview by an asy-
6 lum officer under subsection (f).

7 “(f) ASYLUM INTERVIEWS.—

8 “(1) CREDIBLE FEAR OF PERSECUTION DE-
9 FINED.—In this subsection, the term ‘credible fear
10 of persecution’ means, after taking into account the
11 credibility of the statements made by an unaccom-
12 panied alien child in support of the alien’s claim and
13 such other facts as are known to the asylum officer,
14 there is a significant possibility that the alien could
15 establish eligibility for asylum under section 208.

16 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-
17 lum officer shall conduct the interviews of an unac-
18 companied alien child referred under subsection
19 (e)(3).

20 “(3) REFERRAL OF CERTAIN ALIENS.—If the
21 asylum officer determines at the time of the inter-
22 view that an unaccompanied alien child has a cred-
23 ible fear of persecution, the alien shall be held in the
24 custody of the Secretary for Health and Human
25 Services pursuant to section 235(b) of the William

1 Wilberforce Trafficking Victims Protection Reau-
2 thorization Act of 2008 (8 U.S.C. 1232(b)) during
3 further consideration of the application for asylum.

4 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
5 NO CREDIBLE FEAR OF PERSECUTION.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (C), if the asylum officer determines that
8 an unaccompanied alien child does not have a
9 credible fear of persecution, [the asylum officer
10 shall order the alien removed from the United
11 States without further hearing or review].

12 “(B) RECORD OF DETERMINATION.—The
13 asylum officer shall prepare a written record of
14 a determination under subparagraph (A), which
15 shall include—

16 “(i) a summary of the material facts
17 as stated by the alien;

18 “(ii) such additional facts (if any) re-
19 lied upon by the asylum officer;

20 “(iii) the asylum officer’s analysis of
21 why, in light of such facts, the alien has
22 not established a credible fear of persecu-
23 tion; and

24 “(iv) a copy of the asylum officer’s
25 interview notes.

1 “(C) REVIEW OF DETERMINATION.—

2 “(i) RULEMAKING.—The Attorney
3 General shall establish, by regulation, a
4 process by which an immigration judge will
5 conduct a prompt review, upon the alien’s
6 request, of a determination under subpara-
7 graph (A) that the alien does not have a
8 credible fear of persecution.

9 “(ii) MANDATORY COMPONENTS.—
10 The review described in clause (i)—

11 “(I) shall include an opportunity
12 for the alien to be heard and ques-
13 tioned by the immigration judge, ei-
14 ther in person or by telephonic or
15 video connection; and

16 “(II) shall be concluded as expe-
17 ditiously as possible, to the maximum
18 extent practicable within 24 hours,
19 but in no case later than 7 days after
20 the date of the determination under
21 subparagraph (A).

22 “(D) MANDATORY PROTECTIVE CUS-
23 TODY.—Any alien subject to the procedures
24 under this paragraph shall be held in the cus-
25 tody of the Secretary of Health and Human

1 Services pursuant to section 235(b) of the Wil-
2 liam Wilberforce Trafficking Victims Protection
3 Reauthorization Act of 2008 (8 U.S.C.
4 1232(b))—

5 “(i) pending a final determination of
6 an application for asylum under this sub-
7 section; and

8 “(ii) after a determination under this
9 subsection that the alien does not have a
10 credible fear of persecution, until the alien
11 is removed.

12 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

13 “(1) IN GENERAL.—Except as provided in sub-
14 section (f)(4)(C) and paragraph (2), a removal order
15 entered in accordance with subsection (e)(2) or
16 (f)(4)(A) is not subject to administrative appeal.

17 “(2) RULEMAKING.—The Attorney General
18 shall establish, by regulation, a process for the
19 prompt review of an order under subsection (e)(2)
20 against an alien who claims under oath, or as per-
21 mitted under penalty of perjury under section 1746
22 of title 28, United States Code, after having been
23 warned of the penalties for falsely making such
24 claim under such conditions to have been—

1 “(A) lawfully admitted for permanent resi-
2 dence;

3 “(B) admitted as a refugee under section
4 207; or

5 “(C) granted asylum under section 208.

6 “(h) LAST IN, FIRST OUT.—In any proceedings, de-
7 terminations, or removals under this section, priority shall
8 be accorded to the alien who has most recently arrived
9 in the United States.”.

10 (2) TABLE OF CONTENTS AMENDMENT.—The
11 table of contents in the first section of the Immigra-
12 tion and Nationality Act is amended by inserting
13 after the item relating to section 235A the following:

“Sec. 235B. Humane and expedited inspection and screening for unaccom-
panied alien children.”.

14 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
15 Section 242 of the Immigration and Nationality Act (8
16 U.S.C. 1252) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1), by striking “section
19 235(b)(1))” and inserting “section 235(b)(1) or
20 an order of removal issued to an unaccom-
21 panied alien child after proceedings under sec-
22 tion 235B)”; and

23 (B) in paragraph (2)—

1 (i) by inserting “or section 235B”
2 after “section 235(b)(1)” each place that
3 term appears; and

4 (ii) in subparagraph (A)—

5 (I) in the subparagraph heading,
6 by striking “235(b)(1).—” and insert-
7 ing “235(b)(1) AND 235B.—”; and

8 (II) in clause (iii), by striking
9 “section 235(b)(1)(B),” and inserting
10 “section 235(b)(1)(B) or 235B(f);”;
11 and

12 (2) in subsection (e)—

13 (A) in the subsection heading, striking
14 “235(b)(1).—” and inserting “235(b)(1) OR
15 235B.—”;

16 (B) by inserting “or section 235B” after
17 “section 235(b)(1)” each place that term ap-
18 pears;

19 (C) in subparagraph (2)(C), by inserting
20 “or section 235B(g)” after “section
21 235(b)(1)(C)”;

22 (D) in subparagraph (3)(A), by inserting
23 “or section 235B” after “section 235(b)”.

1 **SEC. 313. CHILD WELFARE AND LAW ENFORCEMENT IN-**
2 **FORMATION SHARING.**

3 Subsection (b) of section 235 of the William Wilber-
4 force Trafficking Victims Protection Reauthorization Act
5 of 2008 (8 U.S.C. 1232(b)) is amended by adding at the
6 end the following:

7 “(5) INFORMATION SHARING.—

8 “(A) IMMIGRATION STATUS.—If the Sec-
9 retary of Health and Human Services considers
10 placement of an unaccompanied alien child with
11 a potential sponsor, the Secretary of Homeland
12 Security shall provide to the Secretary of
13 Health and Human Services the immigration
14 status of such potential sponsor prior to the
15 placement of the unaccompanied alien child.

16 “(B) OTHER INFORMATION.—The Sec-
17 retary of Health and Human Services shall pro-
18 vide to the Secretary of Homeland Security and
19 the Attorney General any relevant information
20 related to an unaccompanied alien child who is
21 or has been in the custody of the Secretary of
22 Health and Human Services, including the loca-
23 tion of the child and any person to whom cus-
24 tody of the child has been transferred, for any
25 legitimate law enforcement objective, including
26 enforcement of the immigration laws.”.

1 **SEC. 314. ACCOUNTABILITY FOR CHILDREN AND TAX-**
2 **PAYERS.**

3 Subsection (b) of section 235 of the William Wilber-
4 force Trafficking Victims Protection Reauthorization Act
5 of 2008 (8 U.S.C. 1232(b)), as amended by section 313,
6 is further amended by inserting at the end the following:

7 “(6) INSPECTION OF FACILITIES.—The Inspec-
8 tor General of the Department of Health and
9 Human Services shall conduct regular inspections of
10 facilities utilized by the Secretary of Health and
11 Human Services to provide care and custody of un-
12 accompanied alien children who are in the immediate
13 custody of the Secretary to ensure that such facili-
14 ties are operated in the most efficient manner prac-
15 ticable.

16 “(7) FACILITY OPERATIONS COSTS.—The Sec-
17 retary of Health and Human Services shall ensure
18 that facilities utilized to provide care and custody of
19 unaccompanied alien children are operated efficiently
20 and at a rate of cost that is not greater than \$500
21 per day for each child housed or detained at such fa-
22 cility, unless the Secretary certifies that compliance
23 with this requirement is temporarily impossible due
24 to emergency circumstances.”.

1 **SEC. 315. CUSTODY OF UNACCOMPANIED ALIEN CHILDREN**
2 **IN FORMAL REMOVAL PROCEEDING.**

3 Section 235(c) of the William Wilberforce Trafficking
4 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
5 1232(c)) is amended—

6 (1) in paragraph (2) by inserting at the end the
7 following:

8 “(C) CHILDREN IN FORMAL REMOVAL
9 PROCEEDINGS.—

10 “(i) LIMITATION ON PLACEMENT.—

11 An unaccompanied alien child who has
12 been placed in a proceeding under section
13 240 of the Immigration and Nationality
14 Act (8 U.S.C. 1229a) may not be placed in
15 the custody of a nongovernmental sponsor
16 or otherwise released from the immediate
17 custody of the United States Government
18 unless—

19 “(I) the nongovernmental spon-
20 sor is a biological or adoptive parent
21 of the unaccompanied alien child;

22 “(II) the parent is legally present
23 in the United States at the time of
24 the placement;

1 “(III) the parent has undergone
2 a mandatory biometric criminal his-
3 tory check; and

4 “(IV) the Secretary of Health
5 and Human Services has determined
6 that the unaccompanied alien child is
7 not a danger to self, danger to the
8 community, or risk of flight.

9 “(ii) EXCEPTIONS.—If the Secretary
10 of Health and Human Services determines
11 that an unaccompanied alien child is a vic-
12 tim of severe forms of trafficking in per-
13 sons (as defined in section 103 of the
14 Trafficking Victims Protection Act of 2000
15 (22 U.S.C. 7102)), a special needs child
16 with a disability (as defined in section 3 of
17 the Americans with Disabilities Act of
18 1990 (42 U.S.C. 12102)), a child who has
19 been a victim of physical or sexual abuse
20 under circumstances that indicate that the
21 child’s health or welfare has been signifi-
22 cantly harmed or threatened, or a child
23 with mental health needs that require on-
24 going assistance from a social welfare
25 agency, the unaccompanied alien child may

1 be placed with a grandparent or adult sib-
2 ling if the grandparent or adult sibling
3 meets the requirements set out in sub-
4 clauses (II), (III), and (IV) of clause (i).

5 “(iii) MONITORING.—

6 “(I) IN GENERAL.—An unaccom-
7 panied alien child who is 15, 16, or 17
8 years of age placed with a nongovern-
9 mental sponsor or, [in the case of an
10 unaccompanied alien child younger
11 than 15 years of age placed with a
12 nongovernmental sponsor,] such non-
13 governmental sponsor shall—

14 “(aa) enroll in the alter-
15 native to detention program of
16 U.S. Immigration and Customs
17 Enforcement; and

18 “(bb) continuously wear an
19 electronic ankle monitor while the
20 unaccompanied alien child is in
21 removal proceedings.

22 “(II) PENALTY FOR MONITOR
23 TAMPERING.—If an electronic ankle
24 monitor required by subclause (I) is
25 tampered with, the sponsor of the un-

1 accompanied alien child shall be sub-
2 ject to a civil penalty of \$150 for each
3 day the monitor is not functioning due
4 to the tampering, up to a maximum of
5 \$3,000.

6 “(iv) EFFECT OF VIOLATION OF CON-
7 DITIONS.—The Secretary of Health and
8 Human Services shall remove an unaccom-
9 panied alien child from a sponsor if the
10 sponsor violates the terms of the agree-
11 ment specifying the conditions under which
12 the alien was placed with the sponsor.

13 “(v) FAILURE TO APPEAR.—

14 “(I) CIVIL PENALTY.—If an un-
15 accompanied alien child is placed with
16 a sponsor and fails to appear in a
17 mandatory court appearance, the
18 sponsor shall be subject to a civil pen-
19 alty of \$250 for each day until the
20 alien appears in court, up to a max-
21 imum of \$5,000.

22 “(II) BURDEN OF PROOF.—The
23 sponsor is not subject to the penalty
24 imposed under subclause (I) if the
25 sponsor—

1 “(aa) appears in person and
2 proves to the immigration court
3 that the failure to appear by the
4 unaccompanied alien child was
5 not the fault of the sponsor; and

6 “(bb) supplies the immigra-
7 tion court with documentary evi-
8 dence that supports the assertion
9 described in item (aa).

10 “(vi) PROHIBITION ON PLACEMENT
11 WITH SEX OFFENDERS AND HUMAN TRAF-
12 FICKERS.—The Secretary of Health and
13 Human Services may not place an unac-
14 companied alien child under this subpara-
15 graph in the custody of an individual who
16 has been convicted of, or the Secretary has
17 reason to believe was otherwise involved in
18 the commission of—

19 “(I) a sex offense (as defined in
20 section 111 of the Sex Offender Reg-
21 istration and Notification Act (42
22 U.S.C. 16911));

23 “(II) a crime involving severe
24 forms of trafficking in persons (as de-
25 fined in section 103 of the Trafficking

1 Victims Protection Act of 2000 (22
2 U.S.C. 7102)); or

3 **【“(III) a crime of violence, as de-**
4 **defined in section 16 of title 18 of the**
5 **United States Code.】**

6 “(vii) REQUIREMENTS OF CRIMINAL
7 BACKGROUND CHECK.—A biometric crimi-
8 nal history check required by clause
9 (i)(III) shall be conducted using a set of
10 fingerprints or other biometric identifier
11 through—

12 “(I) the Federal Bureau of Inves-
13 tigation;

14 “(II) criminal history repositories
15 of all States that the individual lists
16 as current or former residences; and

17 “(III) any other State or Federal
18 database or repository that the Sec-
19 retary of Health and Human Services
20 determines is appropriate.”.

1 **SEC. 316. FRAUD IN CONNECTION WITH THE TRANSFER OF**
2 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
3 **DREN.**

4 (a) IN GENERAL.—Chapter 47 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 1041. Fraud in connection with the transfer of cus-**
8 **tody of unaccompanied alien children**

9 “(a) IN GENERAL.—It shall be unlawful for a person
10 to obtain custody of an unaccompanied alien child (as de-
11 fined in section 462(g) of the Homeland Security Act of
12 2002 (6 U.S.C. 279(g)) by—

13 “(1) making any materially false, fictitious, or
14 fraudulent statement or representation; or

15 “(2) making or using any false writing or docu-
16 ment knowing the same to contain any materially
17 false, fictitious, or fraudulent statement or entry.

18 “(b) PENALTIES.—

19 “(1) IN GENERAL.—Any person who violates, or
20 attempts or conspires to violate, this section shall be
21 fined under this title and imprisoned for not less
22 than 1 year.

23 “(2) ENHANCED PENALTY FOR TRAF-
24 FICKING.—If the primary purpose of the violation,
25 attempted violation, or conspiracy to violate this sec-
26 tion was to subject the child to sexually explicit ac-

1 tivity or any other form of exploitation, the offender
2 shall be fined under this title and imprisoned for not
3 less than 15 years.”.

4 (b) TABLE OF SECTIONS AMENDMENT.—The table of
5 sections for chapter 47 of title 18, United States Code,
6 is amended by inserting after the item relating to section
7 1040 the following:

“Sec. 1041. Fraud in connection with the transfer of custody of unaccompanied
alien children.”.

8 **SEC. 317. NOTIFICATION OF STATES, REPORTING, AND**
9 **MONITORING.**

10 (a) NOTIFICATION.—Section 235 of the William Wil-
11 berforce Trafficking Victims Protection Reauthorization
12 Act of 2008 (8 U.S.C. 1232) is amended by adding at
13 the end the following:

14 “(j) NOTIFICATION TO STATES.—

15 “(1) PRIOR TO PLACEMENT.—The Secretary of
16 Homeland Security or the Secretary of Health and
17 Human Services shall notify the Governor of a State
18 not later than 48 hours prior to the placement of an
19 unaccompanied alien child from in custody of such
20 Secretary in the care of a facility or sponsor in such
21 State.

22 “(2) INITIAL REPORTS.—Not later than 60
23 days after the date of the enactment of the Pro-
24 tecting Children and America’s Homeland Act of

1 2017, the Secretary of Health and Human Services
2 shall submit a report to the Governor of each State
3 in which an unaccompanied alien child was dis-
4 charged to a sponsor or placed in a facility while re-
5 maining in the legal custody of the Secretary during
6 the period beginning October 1, 2013 and ending on
7 the date of the enactment of the Protecting Children
8 and America’s Homeland Act of 2017.

9 “(3) MONTHLY REPORTS.—The Secretary of
10 Health and Human Services shall submit a monthly
11 report to the Governor of each State in which, dur-
12 ing the reporting period, unaccompanied alien chil-
13 dren were discharged to a sponsor or placed in a fa-
14 cility while remaining in the legal custody of the
15 Secretary of Health and Human Services.

16 “(4) CONTENTS.—Each report required to be
17 submitted to the Governor of a State by paragraph
18 (2) or (3) shall identify the number of unaccom-
19 panied alien children placed in the State during the
20 reporting period, disaggregated by—

21 “(A) the locality in which the aliens were
22 placed; and

23 “(B) the age of the aliens.”.

24 **[(b) MONITORING REQUIREMENT.—The Secretary of**
25 Health and Human Services shall—**]**

1 【(1) require all sponsors to agree—】

2 【(A) to receive approval from the Sec-
3 retary of Health and Human Services prior to
4 changing the location in which the sponsor is
5 housing an unaccompanied alien child placed in
6 the sponsor’s custody; and】

7 【(B) to provide a current address for the
8 child and the reason for the change of ad-
9 dress;】

10 【(2) provide regular and frequent monitoring of
11 the physical and emotional well-being of each unac-
12 companied alien child who has been discharged to a
13 sponsor or remained in the legal custody of the Sec-
14 retary until the child’s immigration case is resolved;
15 and】

16 【(3) not later than 60 days after the date of
17 the enactment of this Act, provide to Congress a
18 plan for implementing the requirement of paragraph
19 (2).】

20 **SEC. 318. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

21 (a) DESIGNATION.—Not later than 14 days after the
22 date of the enactment of this Act, the Attorney General
23 shall designate up to 100 immigration judges, including
24 through the temporary or permanent hiring of retired im-
25 migration judges, magistrate judges, or administrative law

1 judges, or the reassignment of current immigration
2 judges, that are dedicated to—

3 (1) conducting humane and expedited inspec-
4 tion and screening for unaccompanied alien children
5 under section 235B of the Immigration and Nation-
6 ality Act, as added by section 312; or

7 (2) reducing existing backlogs in immigration
8 court proceedings initiated under section 239 of the
9 Immigration and Nationality Act (8 U.S.C. 1229).

10 (b) REQUIREMENT.—The Attorney General shall en-
11 sure that sufficient immigration judge resources are dedi-
12 cated to the purpose described in subsection (a)(1) to com-
13 ply with the requirement under section 235B(b)(1) of the
14 Immigration and Nationality Act, as added by section 312.

15 **SEC. 319. REPORTS TO CONGRESS.**

16 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
17 CHILD.—Not later than [December 31, 2014/2017 and
18 September 30, 2015/2018], the Secretary of Health and
19 Human Services shall submit to Congress and make pub-
20 lically available a report that includes—

21 (1) a detailed summary of the contracts in ef-
22 fect to care for and house unaccompanied alien chil-
23 dren, including the names and locations of contrac-
24 tors and the facilities being used;

1 (2) the cost per day to care for and house an
2 unaccompanied alien child, including an explanation
3 of such cost;

4 (3) the number of unaccompanied alien children
5 who have been released to a sponsor, if any;

6 (4) a list of the States to which unaccompanied
7 alien children have been released from the custody of
8 the Secretary of Health and Human Services to the
9 care of a sponsor or placement in a facility;

10 (5) the number of unaccompanied alien children
11 who have been released to a sponsor who is not law-
12 fully present in the United States, including the
13 country of nationality or last habitual residence and
14 age of such children;

15 (6) a determination of whether more than 1 un-
16 accompanied alien child has been released to the
17 same sponsor, including the number of children who
18 were released to such sponsor;

19 (7) an assessment of the extent to which the
20 Secretary of Health and Human Services is moni-
21 toring the release of unaccompanied alien children,
22 including home studies done and ankle bracelets or
23 other devices used;

1 (8) an assessment of the extent to which the
2 Secretary of Health and Human Services is making
3 efforts—

4 (A) to educate unaccompanied alien chil-
5 dren about their legal rights; and

6 (B) to provide unaccompanied alien chil-
7 dren with access to pro bono counsel; and

8 (9) the extent of the public health issues of un-
9 accompanied alien children, including contagious dis-
10 eases, the benefits or medical services provided, and
11 the outreach to States and localities about public
12 health issues, that could affect the public.

13 (b) REPORTS ON REPATRIATION AGREEMENTS.—
14 Not later than [February 31, 2015/2018 and August 31,
15 2015/2018,] the Secretary of State shall submit to Con-
16 gress and make publically available a report that—

17 (1) describes—

18 (A) any repatriation agreement for unac-
19 companied alien children in effect and a copy of
20 such agreement; and

21 (B) any such repatriation agreement that
22 is being considered or negotiated; and

23 (2) describes the funding provided to the 20
24 countries that have the highest number of nationals

1 entering the United States as unaccompanied alien
2 children, including amounts provided—

3 (A) to deter the nationals of each country
4 from illegally entering the United States; and

5 (B) to care for or reintegrate repatriated
6 unaccompanied alien children in the country of
7 nationality or last habitual residence.

8 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
9 ALITY.—Not later than [December 31, 2014/2017 and
10 September 30, 2015/2018], the Secretary of Homeland
11 Security shall submit to Congress and make publically
12 available a report that describes—

13 (1) the number of unaccompanied alien children
14 who have voluntarily returned to their country of na-
15 tionality or habitual residence, disaggregated by—

16 (A) country of nationality or habitual resi-
17 dence; and

18 (B) age of the unaccompanied alien chil-
19 dren;

20 (2) the number of unaccompanied alien children
21 who have been returned to their country of nation-
22 ality or habitual residence, including assessment of
23 the length of time such children were present in the
24 United States;

1 (3) the number of unaccompanied alien children
2 who have not been returned to their country of na-
3 tionality or habitual residence pending travel docu-
4 ments or other requirements from such country, in-
5 cluding how long they have been waiting to return;
6 and

7 (4) the number of unaccompanied alien children
8 who were granted relief in the United States, wheth-
9 er through asylum or any other immigration benefit.

10 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
11 later than **【September 30, 2015/2018】**, and once every
12 3 months thereafter, the Director of the Executive Office
13 for Immigration Review shall submit to Congress and
14 make publically available a report that describes—

15 (1) the number of unaccompanied alien children
16 who, after proceedings under section 235B of the
17 Immigration and Nationality Act, as added by sec-
18 tion 312, were returned to their country of nation-
19 ality or habitual residence, disaggregated by—

20 (A) country of nationality or residence; and

21 (B) age and gender of such aliens;

22 (2) the number of unaccompanied alien children
23 who, after proceedings under such section 235B,
24 prove a claim of admissibility and are placed in pro-

1 ceedings under section 240 of the Immigration and
2 Nationality Act (8 U.S.C. 1229a);

3 (3) the number of unaccompanied alien children
4 who fail to appear at a removal hearing that such
5 alien was required to attend;

6 (4) the number of sponsors who were levied a
7 penalty, including the amount and whether the pen-
8 alty was collected, for the failure of an unaccom-
9 panied alien child to appear at a removal hearing;
10 and

11 (5) the number of aliens that are classified as
12 unaccompanied alien children, the ages and coun-
13 tries of nationality of such children, and the orders
14 issued by the immigration judge at the conclusion of
15 proceedings under such section 235B for such chil-
16 dren.

17 **Subtitle C—Back the Blue Act of**
18 **2017**

19 **SEC. 321. SHORT TITLE.**

20 This subtitle may be cited as the “Back the Blue Act
21 of 2017”.

22 **SEC. 322. PROTECTION OF LAW ENFORCEMENT OFFICERS.**

23 (a) KILLING OF LAW ENFORCEMENT OFFICERS.—

1 (1) OFFENSE.—Chapter 51 of title 18, United
2 States Code, is amended by adding at the end the
3 following:

4 **“§ 1123. Killing of law enforcement officers**

5 “(a) DEFINITIONS.—In this section—

6 “(1) the terms ‘Federal law enforcement officer’
7 and ‘United States judge’ have the meanings given
8 those terms in section 115;

9 “(2) the term ‘Federally funded public safety
10 officer’ means a public safety officer or judicial offi-
11 cer for a public agency that—

12 “(A) receives Federal financial assistance;
13 and

14 “(B) is an agency of an entity that is a
15 State of the United States, the District of Co-
16 lumbia, the Commonwealth of Puerto Rico, the
17 Virgin Islands, Guam, American Samoa, the
18 Commonwealth of the Northern Mariana Is-
19 lands, or any territory or possession of the
20 United States, an Indian tribe, or a unit of
21 local government of that entity;

22 “(3) the term ‘firefighter’ includes an individual
23 serving as an official recognized or designated mem-
24 ber of a legally organized volunteer fire department

1 and an officially recognized or designated public em-
2 ployee member of a rescue squad or ambulance crew;

3 “(4) the term ‘judicial officer’ means a judge or
4 other officer or employee of a court, including pros-
5 ecutors, court security, pretrial services officers,
6 court reporters, and corrections, probation, and pa-
7 role officers;

8 “(5) the term ‘law enforcement officer’ means
9 an individual, with arrest powers, involved in crime
10 or juvenile delinquency control or reduction or en-
11 forcement of the laws;

12 “(6) the term ‘public agency’ includes a court
13 system, the National Guard of a State to the extent
14 the personnel of that National Guard are not in
15 Federal service, and the defense forces of a State
16 authorized by section 109 of title 32; and

17 “(7) the term ‘public safety officer’ means an
18 individual serving a public agency in an official ca-
19 pacity, as a law enforcement officer, as a firefighter,
20 as a chaplain, or as a member of a rescue squad or
21 ambulance crew.

22 “(b) OFFENSE.—It shall be unlawful for any person
23 to—

24 “(1) kill, or attempt or conspire to kill—

25 “(A) a United States judge;

1 “(B) a Federal law enforcement officer; or

2 “(C) a Federally funded public safety offi-

3 cer while that officer is engaged in official du-

4 ties, or on account of the performance of offi-

5 cial duties; or

6 “(2) kill a former United States judge, Federal

7 law enforcement officer, or Federally funded public

8 safety officer on account of the past performance of

9 official duties.

10 “(c) PENALTY.—Any person that violates subsection

11 (b) shall be fined under this title and imprisoned for not

12 less than 10 years or for life, or, if death results, shall

13 be sentenced to not less than 30 years and not more than

14 life, or may be punished by death.”.

15 (2) TABLE OF SECTIONS AMENDMENT.—The

16 table of sections for chapter 51 of title 18, United

17 States Code, is amended by adding at the end the

18 following:

“1123. Killing of law enforcement officers.”.

19 (b) ASSAULT OF LAW ENFORCEMENT OFFICERS.—

20 (1) OFFENSE.—Chapter 7 of title 18, United

21 States Code, is amended by adding at the end the

22 following:

23 **“§ 120. Assaults of law enforcement officers**

24 “(a) DEFINITION.—In this section, the term ‘Feder-

25 ally funded State or local law enforcement officer’ means

1 an individual involved in crime and juvenile delinquency
2 control or reduction, or enforcement of the laws (including
3 a police, corrections, probation, or parole officer) who
4 works for a public agency (that receives Federal financial
5 assistance) of a State of the United States or the District
6 of Columbia.

7 “(b) OFFENSE.—It shall be unlawful to assault a
8 Federally funded State or local law enforcement officer
9 while engaged in or on account of the performance of offi-
10 cial duties, or assaults any person who formerly served as
11 a Federally funded State or local law enforcement officer
12 on account of the performance of such person’s official du-
13 ties during such service, or because of the actual or per-
14 ceived status of the person as a Federally funded State
15 or local law enforcement officer.

16 “(c) PENALTY.—Any person that violations sub-
17 section (b) shall be subject to a fine under this title and—

18 “(1) if the assault resulted in bodily injury (as
19 defined in section 1365), shall be imprisoned not less
20 than 2 years and not more than 10 years;

21 “(2) if the assault resulted in substantial bodily
22 injury (as defined in section 113), shall be impris-
23 oned not less than 5 years and not more than 20
24 years;

1 “(3) if the assault resulted in serious bodily in-
2 jury (as defined in section 1365), shall be impris-
3 oned for not less than 10 years;

4 “(4) if a deadly or dangerous weapon was used
5 during and in relation to the assault, shall be im-
6 prisoned for not less than 20 years; and

7 “(5) shall be imprisoned for not more than 1
8 year in any other case.

9 “(d) CERTIFICATION REQUIREMENT.—

10 “(1) IN GENERAL.—No prosecution of any of-
11 fense described in this section may be undertaken by
12 the United States, except under the certification in
13 writing of the Attorney General, or a designee,
14 that—

15 “(A) the State does not have jurisdiction;

16 “(B) the State has requested that the Fed-
17 eral Government assume jurisdiction;

18 “(C) the verdict or sentence obtained pur-
19 suant to State charges left demonstratively
20 unvindicated the Federal interest in eradicating
21 bias-motivated violence; or

22 “(D) a prosecution by the United States is
23 in the public interest and necessary to secure
24 substantial justice.

1 “(2) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to limit the au-
3 thority of Federal officers, or a Federal grand jury,
4 to investigate possible violations of this section.

5 “(e) STATUTE OF LIMITATIONS.—

6 “(1) OFFENSES NOT RESULTING IN DEATH.—
7 Except as provided in paragraph (2), no person shall
8 be prosecuted, tried, or punished for any offense
9 under this section unless the indictment for such of-
10 fense is found, or the information for such offense
11 is instituted, not later than 7 years after the date
12 on which the offense was committed.

13 “(2) OFFENSES RESULTING IN DEATH.—An in-
14 dictment or information alleging that an offense
15 under this section resulted in death may be found or
16 instituted at any time without limitation.”.

17 (2) TABLE OF SECTIONS AMENDMENT.—The
18 table of sections for chapter 7 of title 18, United
19 States Code, is amended by adding at the end the
20 following:

 “120. Killing of law enforcement officers.”.

21 (c) FLIGHT TO AVOID PROSECUTION FOR KILLING
22 LAW ENFORCEMENT OFFICIALS.—

23 (1) OFFENSE.—Chapter 49 of title 18, United
24 States Code, is amended by adding at the end the
25 following:

1 **“§ 1075. Flight to avoid prosecution for killing law**
2 **enforcement officials**

3 “(a) OFFENSE.—It shall be unlawful for any person
4 to move or travel in interstate or foreign commerce with
5 intent to avoid prosecution, or custody or confinement
6 after conviction, under the laws of the place from which
7 the person flees or under section 1114 or 1123, for a crime
8 consisting of the killing, an attempted killing, or a con-
9 spiracy to kill a Federal judge or Federal law enforcement
10 officer (as those terms are defined in section 115), or a
11 Federally funded public safety officer (as that term is de-
12 fined in section 1123).

13 “(b) PENALTY.—Any person that violates subsection
14 (a) shall be fined under this title and imprisoned for not
15 less than 10 years, in addition to any other term of impris-
16 onment for any other offense relating to the conduct de-
17 scribed in subsection (a).”.

18 (2) TABLE OF SECTIONS AMENDMENT.—The
19 table of sections for chapter 49 of title 18, United
20 States Code, is amended by adding at the end the
21 following:

“1075. Flight to avoid prosecution for killing law enforcement officials.”.

1 **SEC. 323. SPECIFIC AGGRAVATING FACTOR FOR FEDERAL**
2 **DEATH PENALTY KILLING OF LAW ENFORCE-**
3 **MENT OFFICER.**

4 (a) AGGRAVATING FACTORS FOR HOMICIDE.—Sec-
5 tion 3592(c) of title 18, United States Code, is amended
6 by inserting after paragraph (16) the following:

7 “(17) KILLING OF A LAW ENFORCEMENT OFFI-
8 CER, PROSECUTOR, JUDGE, OR FIRST RESPONDER.—
9 The defendant killed or attempted to kill a person
10 who is authorized by law—

11 “(A) to engage in or supervise the preven-
12 tion, detention, or investigation of any criminal
13 violation of law;

14 “(B) to arrest, prosecute, or adjudicate an
15 individual for any criminal violation of law; or

16 “(C) to be a firefighter or other first re-
17 sponder.”.

18 **SEC. 324. LIMITATION ON FEDERAL HABEAS RELIEF FOR**
19 **MURDERS OF LAW ENFORCEMENT OFFICERS.**

20 (a) JUSTICE FOR LAW ENFORCEMENT OFFICERS
21 AND THEIR FAMILIES.—

22 (1) IN GENERAL.—Section 2254 of title 28,
23 United States Code, is amended by adding at the
24 end the following:

25 “(j)(1) For an application for a writ of habeas corpus
26 on behalf of a person in custody pursuant to the judgment

1 of a State court for a crime that involved the killing of
2 a public safety officer (as that term is defined in section
3 1204 of title I of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (42 U.S.C. 3796b)) or judge, while
5 the public safety officer or judge was engaged in the per-
6 formance of official duties, or on account of the perform-
7 ance of official duties by or status as a public safety officer
8 or judge of the public safety officer or judge—

9 “(A) the application shall be subject to the time
10 limitations and other requirements under sections
11 2263, 2264, and 2266; and

12 “(B) the court shall not consider claims relating
13 to sentencing that were adjudicated in a State court.

14 “(2) Sections 2251, 2262, and 2101 are the exclusive
15 sources of authority for Federal courts to stay a sentence
16 of death entered by a State court in a case described in
17 paragraph (1).”.

18 (2) RULES.—Rule 11 of the Rules Governing
19 Section 2254 Cases in the United States District
20 Courts is amended by adding at the end the fol-
21 lowing: “Rule 60(b)(6) of the Federal Rules of Civil
22 Procedure shall not apply to a proceeding under
23 these rules in a case that is described in section
24 2254(j) of title 28, United States Code.”.

1 (3) FINALITY OF DETERMINATION.—Section
2 2244(b)(3)(E) of title 28, United States Code, is
3 amended by striking “the subject of a petition” and
4 all that follows and inserting: “reheard in the court
5 of appeals or reviewed by writ of certiorari.”.

6 (4) EFFECTIVE DATE AND APPLICABILITY.—

7 (A) IN GENERAL.—This subsection and the
8 amendments made by this subsection shall
9 apply to any case pending on or after the date
10 of enactment of this Act.

11 (B) TIME LIMITS.—In a case pending on
12 the date of enactment of this Act, if the amend-
13 ments made by this subsection impose a time
14 limit for taking certain action, the period of
15 which began before the date of enactment of
16 this Act, the period of such time limit shall
17 begin on the date of enactment of this Act.

18 (C) EXCEPTION.—The amendments made
19 by this subsection shall not bar consideration
20 under section 2266(b)(3)(B) of title 28, United
21 States Code, of an amendment to an application
22 for a writ of habeas corpus that is pending on
23 the date of enactment of this Act, if the amend-
24 ment to the petition was adjudicated by the
25 court prior to the date of enactment of this Act.

1 **SEC. 325. LIMITATION ON RECOVERY OF CERTAIN DAM-**
2 **AGES FOR INDIVIDUALS ENGAGED IN FELO-**
3 **NIES OR CRIMES OF VIOLENCE.**

4 (a) IN GENERAL.—Section 1979 of the Revised Stat-
5 utes (42 U.S.C. 1983) is amended by—

6 (1) striking “except that in any action” and all
7 that follows through “relief was unavailable.” and
8 inserting the following: “except that—

9 “(1) in any action brought against a judicial of-
10 ficer for an act or omission taken in the judicial ca-
11 pacity of that officer, injunctive relief shall not be
12 granted unless a declaratory decree was violated or
13 declaratory relief was unavailable; and

14 “(2) in any action seeking redress for any dep-
15 rivation that was incurred in the course of, or as a
16 result of, or is related to, conduct by the injured
17 party that, more likely than not, constituted a felony
18 or a crime of violence (as that term is defined in sec-
19 tion 16 of title 18, United States Code) (including
20 any deprivation in the course of arrest or apprehen-
21 sion for, or the investigation, prosecution, or adju-
22 dication of, such an offense), a court may not award
23 damages other than for necessary out-of-pocket ex-
24 penditures and other monetary loss.”; and

25 (2) indenting the last sentence as an undesig-
26 nated paragraph.

1 (b) ATTORNEY’S FEES.—Section 722(b) of the Re-
2 vised Statutes (42 U.S.C. 1988(b)) is amended by striking
3 “except that in any action” and all that follows and insert-
4 ing the following: “except that—

5 “(1) in any action brought against a judicial of-
6 ficer for an act or omission taken in the judicial ca-
7 pacity of that officer, such officer shall not be held
8 liable for any costs, including attorneys fees, unless
9 such action was clearly in excess of the jurisdiction
10 of that officer; and

11 “(2) in any action seeking redress for any dep-
12 rivation that was incurred in the course of, or as a
13 result of, or is related to, conduct by the injured
14 party that, more likely than not, constituted a felony
15 or a crime of violence (as that term is defined in sec-
16 tion 16 of title 18, United States Code) (including
17 any deprivation in the course of arrest or apprehen-
18 sion for, or the investigation, prosecution, or adju-
19 dication of, such an offense), the court may not
20 allow such party to recover attorney’s fees.”.

21 **SEC. 326. SELF-DEFENSE RIGHTS FOR LAW ENFORCEMENT**
22 **OFFICERS.**

23 (a) IN GENERAL.—Chapter 203 of title 18, United
24 States Code, is amended by inserting after section 3053
25 the following:

1 **“§ 3054. Authority of law enforcement officers to**
2 **carry firearms**

3 “Any sworn officer, agent, or employee of the United
4 States, a State, or a political subdivision thereof, who is
5 authorized by law to engage in or supervise the prevention,
6 detection, investigation, or prosecution of any violation of
7 law, or to supervise or secure the safety of incarcerated
8 inmates, may carry firearms if authorized by law to do
9 so. Such authority to carry firearms, with respect to the
10 lawful performance of the official duties of a sworn officer,
11 agent, or employee of a State or a political subdivision
12 thereof, shall include possession incident to depositing a
13 firearm within a secure firearms storage area for use by
14 all persons who are authorized to carry a firearm within
15 any building or structure classified as a Federal facility
16 or Federal court facility, as those terms are defined under
17 section 930, and any grounds appurtenant to such a facil-
18 ity.”.

19 (b) CARRYING OF CONCEALED FIREARMS BY QUALI-
20 FIED LAW ENFORCEMENT OFFICERS.—Section
21 926B(e)(2) of title 18, United States Code, is amended
22 by inserting “any magazine and” after “includes”.

23 (c) CARRYING OF CONCEALED FIREARMS BY QUALI-
24 FIED RETIRED LAW ENFORCEMENT OFFICERS.—Section
25 926C(e)(1)(B) of title 18, United States Code, is amended
26 by inserting “any magazine and” after “includes”.

1 (d) SCHOOL ZONES.—Section 922(q)(2)(B)(vi) of
2 title 18, United States Code, is amended by inserting “or
3 a qualified law enforcement officer (as defined in section
4 926B(c))” before the semicolon.

5 (e) REGULATIONS REQUIRED.—Not later than 60
6 days after the date of enactment of this Act, the Attorney
7 General shall promulgate regulations allowing persons de-
8 scribed in section 3054 of title 18, United States Code,
9 to possess firearms in a manner described by that section.
10 With respect to Federal justices, judges, bankruptcy
11 judges, and magistrate judges, such regulations shall be
12 prescribed after consultation with the Judicial Conference
13 of the United States.

14 (f) TABLE OF SECTIONS AMENDMENT.—The table of
15 sections for chapter 203 of title 18, United States Code,
16 is amended by inserting after the item relating to section
17 3053 the following:

“3054. Authority of law enforcement officers to carry firearms.”.

18 **SEC. 327. IMPROVING THE RELATIONSHIP BETWEEN LAW**
19 **ENFORCEMENT AGENCIES AND THE COMMU-**
20 **NITIES THEY SERVE.**

21 (a) IN GENERAL.—For each of fiscal years [2017
22 through 2021], the Attorney General using covered
23 amounts shall, using such amounts as are necessary not
24 to exceed \$20,000,000, award grants to State, local, or

1 tribal law enforcement agencies and appropriate non-
2 governmental organizations to—

3 (1) promote trust and ensure legitimacy among
4 law enforcement agencies and the communities they
5 serve through procedural reforms, transparency, and
6 accountability;

7 (2) develop comprehensive and responsive poli-
8 cies on key topics relevant to the relationship be-
9 tween law enforcement agencies and the commu-
10 nities they serve;

11 (3) balance the embrace of technology and dig-
12 ital communications with local needs, privacy, as-
13 sessments, and monitoring;

14 (4) encourage the implementation of policies
15 that support community-based partnerships in the
16 reduction of crime;

17 (5) emphasize the importance of high quality
18 and effective training and education through part-
19 nerships with local and national training facilities;
20 and

21 (6) endorse practices that support officer
22 wellness and safety through the re-evaluation of offi-
23 cer shift hours, including data collection and anal-
24 ysis.

1 (b) COVERED AMOUNTS DEFINED.—In this section,
2 the term “covered amounts” means—

3 (1) any unobligated balances made available
4 under the heading “GENERAL ADMINISTRATION”
5 under the heading “DEPARTMENT OF JUSTICE” in
6 an appropriations Act in a fiscal year;

7 (2) any amounts made available for an “Ed-
8 ward Byrne Memorial criminal justice innovation
9 program” under the heading “STATE AND LOCAL
10 LAW ENFORCEMENT ASSISTANCE” under the heading
11 “OFFICE OF JUSTICE PROGRAMS” under the heading
12 “DEPARTMENT OF JUSTICE” in an appropriations
13 Act in a fiscal year; or

14 (3) any combination of amounts described in
15 paragraphs (1) and (2).

1 **TITLE IV—PENALTIES FOR**
2 **SMUGGLING, DRUG TRAF-**
3 **FICKING, HUMAN TRAF-**
4 **FICKING, TERRORISM, AND**
5 **ILLEGAL ENTRY AND RE-**
6 **ENTRY; BARS TO READMIS-**
7 **SION OF REMOVED ALIENS**

8 **SEC. 401. DANGEROUS HUMAN SMUGGLING, HUMAN TRAF-**
9 **FICKING, AND HUMAN RIGHTS VIOLATIONS.**

10 (a) CRIMINAL PENALTIES.—Section 274(a)(1)(B) of
11 the Immigration and Nationality Act (8 U.S.C.
12 1324(a)(1)(B)) is amended—

13 (1) by redesignating clauses (iii) and (iv) as
14 clauses (vi) and (vii), respectively;

15 (2) in clause (vi), as redesignated, by inserting
16 “less than 10 years nor” before “more than 20
17 years,”; and

18 (3) by inserting after clause (ii) the following:

19 “(iii) in the case of a violation of subparagraph
20 (A)(i), (ii), (iii), (iv), or (v) that is the third or sub-
21 sequent offense committed by such person under this
22 section, shall be fined under title 18, imprisoned not
23 less than 5 years nor more than 25 years, or both;

24 “(iv) in the case of a violation of subparagraph
25 (A)(i), (ii), (iii), (iv), or (v) that negligently, reck-

1 lessly, knowingly, or intentionally results in a victim
2 being involuntarily forced into labor or prostitution,
3 shall be fined under title 18, imprisoned not less
4 than 5 years nor more than 25 years, or both;

5 “(v) in the case of a violation of subparagraph
6 (A)(i),(ii),(iii),(iv),or (v) during and in relation to
7 which any person is subjected to an involuntary sex-
8 ual act (as defined in section 2246(2) of title 18),
9 be fined under title 18, imprisoned for not less than
10 5 years, nor more than 25 years, or both;”.

11 (b) SEIZURE AND FORFEITURE.—Paragraph (1) of
12 Section 274(b) of the Immigration and Nationality Act (8
13 U.S.C. 1324(b)(1)) is amended to read as follows:

14 “(1) IN GENERAL.—Any property, real or per-
15 sonal, involved in or used to facilitate the commis-
16 sion of a violation or attempted violation of sub-
17 section (a), the gross proceeds of such violation or
18 attempted violation, and any property traceable to
19 such property or proceeds, shall be seized and sub-
20 ject to forfeiture.”.

21 **SEC. 402. PUTTING THE BRAKES ON HUMAN SMUGGLING**
22 **ACT.**

23 (a) SHORT TITLE.—This section may be cited as the
24 “Putting the Brakes on Human Smuggling Act”.

1 (b) FIRST VIOLATION.—Paragraph (1) of section
2 31310(b) of title 49, United States Code, is amended—

3 (1) in subparagraph (D), by striking the “or”
4 at the end;

5 (2) in subparagraph (E), by striking the period
6 at the end and inserting a semicolon; and

7 (3) by adding at the end the following:

8 “(F) using a commercial motor vehicle in will-
9 fully aiding or abetting an alien’s illegal entry into
10 the United States by transporting, guiding, direct-
11 ing, or attempting to assist the alien with the alien’s
12 entry in violation of section 275 of the Immigration
13 and Nationality Act (8 U.S.C. 1325), regardless of
14 whether the alien is ultimately fined or imprisoned
15 for an act in violation of such section; or

16 “(G) using a commercial motor vehicle in will-
17 fully aiding or abetting the transport of controlled
18 substances, monetary instruments, bulk cash, or
19 weapons by any individual departing the United
20 States.”.

21 (c) SECOND OR MULTIPLE VIOLATIONS.—Paragraph
22 (1) of section 31310(c) of title 49, United States Code,
23 is amended—

24 (1) in subparagraph (E), by striking the “or”
25 at the end;

1 (2) by redesignating subparagraph (F) as sub-
2 paragraph (H);

3 (3) in subparagraph (H), as redesignated, by
4 striking “(E)” and inserting “(F)”; and

5 (4) by inserting after subparagraph (E) the fol-
6 lowing:

7 “(F) using a commercial motor vehicle on more
8 than one occasion in willfully aiding or abetting an
9 alien’s illegal entry into the United States by trans-
10 porting, guiding, directing and attempting to assist
11 the alien with alien’s entry in violation of section
12 275 of the Immigration and Nationality Act (8
13 U.S.C. 1325), regardless of whether the alien is ulti-
14 mately fined or imprisoned for an act in violation of
15 such section;

16 “(G) using a commercial motor vehicle in will-
17 fully aiding or abetting the transport of controlled
18 substances, monetary instruments, bulk cash, or
19 weapons by any individual departing the United
20 States; or”.

21 (d) **LIFETIME DISQUALIFICATION.**—Subsection (d)
22 of section 31310 of title 49, United States Code, is amend-
23 ed to read as follows:

24 “(d) **LIFETIME DISQUALIFICATION.**—The Secretary
25 shall disqualify from operating a commercial motor vehicle

1 for life an individual who uses a commercial motor vehi-
2 cle—

3 “(1) in committing a felony involving manufac-
4 turing, distributing, or dispensing a controlled sub-
5 stance, or possession with intent to manufacture,
6 distribute, or dispense a controlled substance;

7 “(2) in committing an act for which the indi-
8 vidual is convicted under—

9 “(A) section 274 of the Immigration and
10 Nationality Act (8 U.S.C. 1324); or

11 “(B) section 277 of such Act (8 U.S.C.
12 1327); or

13 “(3) in willfully aiding or abetting the transport
14 of controlled substances, monetary instruments, bulk
15 cash, and weapons by any individual departing the
16 United States.”.

17 (e) REPORTING REQUIREMENTS.—

18 (1) COMMERCIAL DRIVER’S LICENSE INFORMA-
19 TION SYSTEM.—Section 31309(b)(1) of title 49,
20 United States Code, is amended—

21 (A) in subparagraph (E), by striking
22 “and” at the end;

23 (B) in subparagraph (F), by striking the
24 period at the end and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(G) whether the operator was disquali-
2 fied, either temporarily or for life, from oper-
3 ating a commercial motor vehicle under section
4 31310, including under subsection (b)(1)(F),
5 (c)(1)(F), or (d) of such section.”.

6 (2) NOTIFICATION BY THE STATE.—Paragraph
7 (8) of section 31311(a) of title 49, United States
8 Code, is amended by inserting “including such a dis-
9 qualification, revocation, suspension, or cancellation
10 made pursuant to a disqualification under subsection
11 (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after
12 “60 days,”.

13 **SEC. 403. DRUG TRAFFICKING AND CRIMES OF VIOLENCE**
14 **COMMITTED BY ILLEGAL ALIENS.**

15 (a) IN GENERAL.—Title 18, United States Code, is
16 amended by inserting after chapter 27 the following:

17 **“CHAPTER 28—DRUG TRAFFICKING AND**
18 **CRIMES OF VIOLENCE COMMITTED BY**
19 **ILLEGAL ALIENS**

“581. Enhanced penalties for drug trafficking and crimes committed by illegal
aliens.

20 **“§ 581. Enhanced penalties for drug trafficking and**
21 **crimes committed by illegal aliens**

22 “(a) OFFENSE.—Any alien unlawfully present in the
23 United States, who commits, conspires to commit, or at-
24 tempts to commit a crime of violence or a drug trafficking

1 crime (as defined in section 924) shall be fined under this
2 title imprisoned for not less than 5 years, or both.

3 “(b) ENHANCED PENALTIES FOR ALIENS ORDERED
4 REMOVED.—Any alien unlawfully present in the United
5 States who violates subsection (a) and was ordered re-
6 moved under the Immigration and Nationality Act (8
7 U.S.C. 1101 et seq.) on the grounds of having committed
8 a crime before the violation of subsection (a), shall be
9 fined under this title, imprisoned for not less than 15
10 years, or both.

11 “(c) REQUIREMENT FOR CONSECUTIVE SEN-
12 TENCES.—Any term of imprisonment imposed under this
13 section shall be consecutive to any term imposed for any
14 other offense.”.

15 (b) TABLE OF CHAPTERS AMENDMENT.—The table
16 of chapters at the beginning of part I of title 18, United
17 States Code, is amended by inserting after the item relat-
18 ing to chapter 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal
aliens 581”.

19 **SEC. 404. PENALTIES FOR ILLEGAL ENTRY; ENHANCED**
20 **PENALTIES FOR ENTERING WITH INTENT TO**
21 **AID, ABET, OR COMMIT TERRORISM.**

22 (a) IN GENERAL.—Section 275 of the Immigration
23 and Nationality Act (8 U.S.C. 1325) is amended by strik-

1 ing the section heading and subsections (a) and (b) and
2 inserting the following:

3 **“SEC. 275. ILLEGAL ENTRY.**

4 “(a) IN GENERAL.—

5 “(1) CRIMINAL OFFENSES.—An alien shall be
6 subject to the penalties set forth in paragraph (2) if
7 the alien—

8 “(A) enters or crosses, [or attempts to
9 enter or cross], the border into the United
10 States at any time or place other than as des-
11 ignated [by the Secretary of Homeland Secu-
12 rity];

13 “(B) eludes examination or inspection—

14 “(i) by an immigration officer, includ-
15 ing failing to stop at the command of such
16 officer; or

17 “(ii) a customs or agriculture inspec-
18 tion at a port of entry; or

19 “(C) enters or crosses the border to the
20 United States by means of a false or misleading
21 representation or concealment of a material
22 fact, including such representation or conceal-
23 ment in the context of arrival, reporting, entry,
24 or clearance, requirements of the customs laws,

1 immigration laws, agriculture laws, or shipping
2 laws.

3 “(2) CRIMINAL PENALTIES.—Any alien who
4 violates any provision under paragraph (1)—

5 “(A) shall, for the first violation, be fined
6 under title 18, United States Code, imprisoned
7 not more than 6 months, or both;

8 “(B) shall, for a second or subsequent vio-
9 lation, or following an order of voluntary depar-
10 ture, be fined under such title, imprisoned not
11 more than 2 years, or both;

12 “(C) if the violation occurred after the
13 alien had been convicted of 3 or more mis-
14 demeanors, a significant misdemeanor, or for a
15 felony, shall be fined under such title, impris-
16 oned not more than 10 years, or both;

17 “(D) if the violation occurred after the
18 alien had been convicted of a felony for which
19 the alien received a term of imprisonment of
20 not less than 30 months, shall be fined under
21 such title, imprisoned not more than 15 years,
22 or both; and

23 “(E) if the violation occurred after the
24 alien had been convicted of a felony for which
25 the alien received a term of imprisonment of

1 not less than 60 months, such alien shall be
2 fined under such title, imprisoned not more
3 than 20 years, or both.

4 “(3) PRIOR CONVICTIONS.—The prior convic-
5 tions described in subparagraphs (C) through (E) of
6 paragraph (2) are elements of the offenses described
7 in that paragraph and the penalties in such subpara-
8 graphs shall apply only in cases in which the convic-
9 tion or convictions that form the basis for the addi-
10 tional penalty are—

11 “(A) alleged in the indictment or informa-
12 tion; and

13 “(B) proven beyond a reasonable doubt at
14 trial; or

15 “(C) admitted by the defendant.

16 “(4) DURATION OF OFFENSES.—An offense
17 under this subsection continues until the alien is dis-
18 covered within the United States by an immigration
19 officer.

20 “(5) ATTEMPT.—Whoever attempts to commit
21 any offense under this section shall be punished in
22 the same manner as for a completion of such of-
23 fense.

24 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
25 ALTIES.—Any alien who is apprehended while entering,

1 [attempting to enter], or crossing or [attempting to
2 cross] the border to the United States at a time or place
3 other than as [designated by immigration officers] shall
4 be subject to a civil penalty, in addition to any criminal
5 or other civil penalties that may be imposed under any
6 other provision of law, in an amount equal to—

7 “(1) not less than \$50 or more than \$250 for
8 each such entry, crossing, attempted entry, or at-
9 tempted crossing; or

10 “(2) twice the amount specified in paragraph
11 (1) if the alien had previously been subject to a civil
12 penalty under this subsection.”.

13 (b) ENHANCE PENALTIES.—Section 275 of the Im-
14 migration and Nationality Act (8 U.S.C. 1325) is further
15 amended by adding at the end the following:

16 “(e) ENHANCED PENALTY FOR TERRORIST
17 ALIENS.—Any alien who commits an offense described in
18 subsection (a) for the purpose of engaging in, or with the
19 intent to engage in, any Federal crime of terrorism (as
20 defined in section 2332b(g) of title 18, United States
21 Code) shall be imprisoned for not less than 10 years and
22 not more than 30 years.”.

23 (c) TABLE OF CONTENTS AMENDMENT.—The table
24 of contents in the first section of the Immigration and Na-

1 tionality act is amended by striking the item relating to
2 section 275 and inserting the following:

“Sec. 275. Illegal entry.”.

3 (d) APPLICATION.—Paragraph (4) of section 275(a)
4 of the Immigration and Nationality Act, as amended by
5 subsection (a) of this section, shall apply only to violations
6 of paragraph (1) of such section 275(a), as amended by
7 subsection (a) of this section, committed on or after the
8 date of enactment of this Act.

9 **SEC. 405. PENALTIES FOR REENTRY OF REMOVED ALIENS.**

10 (a) SHORT TITLES.—This section may be cited as the
11 “Stop Illegal Reentry Act” or as “Kate’s Law”.

12 (b) INCREASED PENALTIES FOR REENTRY OF RE-
13 MOVED ALIEN.—

14 (1) IN GENERAL.—Section 276 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1326) is amend-
16 ed—

17 (A) by redesignating subsections (c) and
18 (d) as subsections (d) and (e), respectively; and

19 (B) by striking the section heading and
20 subsections (a) and (b) and inserting the fol-
21 lowing:

22 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

23 “(a) IN GENERAL.—Subject to subsections (b) and
24 (c), any alien who—

1 “(1) has been denied admission, excluded, de-
2 ported, or removed or has departed the United
3 States while an order of exclusion, deportation, or
4 removal is outstanding; and

5 “(2) thereafter enters, attempts to enter, or is
6 at any time found in, the United States, unless—

7 “(A) the alien seeking admission more
8 than 10 years after the date of the alien’s last
9 departure from the United States if, prior to
10 the alien’s **【reembarkation】** at a place outside
11 the United States or the alien’s application for
12 admission from a **【foreign contiguous terri-**
13 **tory】**, the Secretary of Homeland Security has
14 expressly consented to such alien’s reapplying
15 for admission; or

16 “(B) with respect to an alien previously de-
17 nied admission and removed, such alien shall
18 establish that the alien was not required to ob-
19 tain such advance consent under this Act or
20 any **【prior Act/other Act】**;

21 shall be fined under title 18, United States Code, or
22 imprisoned not more than 5 years, or both.

23 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
24 TAIN REMOVED ALIENS.—

1 “(1) IN GENERAL.—Notwithstanding the pen-
2 alty provided in subsection (a), and except as pro-
3 vided in subsection (c), an alien described in sub-
4 section (a)—

5 “(A) who was convicted, before the alien
6 was subject to removal or departure, of a sig-
7 nificant misdemeanor shall be fined under title
8 18, United States Code, imprisoned not more
9 than 10 years, or both;

10 “(B) who was convicted before such re-
11 moval or departure of 5 or more misdemeanors
12 involving drugs, crimes against the person, or
13 both, or a felony (other than an aggravated fel-
14 ony), shall be fined under title 18, United
15 States Code, imprisoned not more than 10
16 years, or both;

17 “(C) who has been excluded from the
18 United States pursuant to section 235(c) be-
19 cause the alien was excludable under section
20 212(a)(3)(B) or who has been removed from
21 the United States pursuant to the provisions of
22 title V, and who thereafter, without the permis-
23 sion of the Secretary of Homeland Security, en-
24 ters the United States, or attempts to do so,
25 shall be fined under title 18, United States

1 Code, and imprisoned for a period of 10 years,
2 which sentence shall not run concurrently with
3 any other sentence;

4 “(D) who was removed from the United
5 States pursuant to section 241(a)(4)(B) who
6 thereafter, without the permission of the Sec-
7 retary of Homeland Security, enters, attempts
8 to enter, or is at any time found in, the United
9 States (unless the Secretary of Homeland Secu-
10 rity has expressly consented to such alien’s re-
11 entry) shall be fined under title 18, United
12 States Code, imprisoned for not more than 10
13 years, or both; and

14 “(E) who has been denied admission, ex-
15 cluded, deported, or removed 3 or more times
16 and thereafter enters, attempts to enter, crosses
17 the border to, attempts to cross the border to,
18 or is at any time found in the United States,
19 shall be fined under title 18, United States
20 Code, imprisoned not more than 10 years, or
21 both.

22 “(2) DEFINITIONS.—In this [subsection and
23 subsection (c)/this section]:

24 “(A) REMOVAL.—The term ‘removal’ in-
25 cludes any agreement in which an alien stipu-

1 lates to removal during (or not during) a crimi-
2 nal trial under either Federal or State law.

3 “(B) SIGNIFICANT MISDEMEANOR.—The
4 term ‘significant misdemeanor’ means a mis-
5 demeanor—

6 “(i) which is a crime of domestic vio-
7 lence (as such term is defined in section
8 237(a)(2)(E)(i));

9 “(ii) which is a sexual assault (as
10 such term is defined in section 40002(a) of
11 the Violent Crime Control and Law En-
12 forcement Act of 1994 (42 U.S.C.
13 13925(a));

14 “(iii) which involved the unlawful pos-
15 session of a firearm (as such term is de-
16 fined in section 921 of title 18, United
17 States Code);

18 “(iv) which is a crime of violence (as
19 such term is defined in section 16 of title
20 18, United States Code); or

21 “(v) for which the alien was sentenced
22 to a term of imprisonment of longer than
23 90 days.

24 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
25 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-

1 standing the penalties provided in subsections (a) and (b),
2 an alien described in subsection (a)—

3 “(1) who was convicted, before the alien was
4 subject to removal or departure, of an aggravated
5 felony; or

6 “(2) who was convicted at least 2 times before
7 such removal or departure of illegal reentry under
8 this section;

9 “shall be imprisoned not less than 5 years and not more
10 than 20 years, and may, in addition, be fined under title
11 18, United States Code.”.

12 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
13 Section 276 of the Immigration and Nationality Act (8
14 U.S.C. 1326) is amended—

15 (1) in subsection (d), as redesignated by sub-
16 section (b)(1)—

17 (A) by striking “section 242(h)(2)” and in-
18 serting “section 241(a)(4)”; and

19 (B) by striking “Attorney General” and in-
20 serting “Secretary of Homeland Security”; and

21 (2) in subsection (e), as redesignated by sub-
22 section (b)(1), **[Note: This subsection sets out when**
23 *an alien may challenge “the deportation order de-*
24 *scribed in subsection (a)(1) or subsection (b)” and ap-*

1 *pears to need to be modified to reflect the amendments*
2 *made by this section.】*

3 **[SEC. 406. PROHIBITION ON READMISSION OF REMOVED**
4 **ALIENS.**

5 Subparagraph (A) of section 212(a)(9) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1182(a)(9)) is
7 amended to read as follows:】

8 【“(A) CERTAIN ALIENS PREVIOUSLY RE-
9 MOVED.—】

10 【“(i) ARRIVING ALIENS.—】

11 【“(I) IN GENERAL.—Any alien
12 who has been ordered removed under
13 section 235(b)(1) or at the end of pro-
14 ceedings under section 240 initiated
15 upon the alien’s arrival in the United
16 States and who again seeks admission
17 within 5 years of the date of such re-
18 moval is inadmissible.】

19 【“(II) ARRIVING ALIENS WHO
20 SEEK ADMISSION AFTER A SECOND OR
21 SUBSEQUENT REMOVAL.—Any alien
22 who has been ordered removed more
23 than 1 time under section 235(b)(1)
24 or at the end of proceedings under
25 section 240 initiated upon the alien’s

1 arrival in the United States and who
2 again seeks admission more than 10
3 years after the date of such removal is
4 inadmissible.】

5 【“(III) ARRIVING ALIENS WHO
6 ARE AGGRAVATED FELONS WHO SEEK
7 ADMISSION AFTER REMOVAL.—Any
8 alien who has been ordered removed
9 under section 235(b)(1) or at the end
10 of proceedings under section 240 initi-
11 ated upon the alien’s arrival in the
12 United States, is an aggravated felon,
13 and who again seeks admission at
14 anytime after the date of such re-
15 moval is inadmissible.】

16 【“(ii) OTHER ALIENS.—】

17 【“(I) IN GENERAL.—Any alien
18 not described in clause (i) who has
19 been ordered removed under section
20 240 or any other provision of law or
21 has departed the United States while
22 an order of removal was outstanding,
23 and who again seeks admission within
24 10 years of the date of such removal
25 is inadmissible.】

1 【“(II) OTHER ALIENS WHO SEEK
2 ADMISSION AFTER A SECOND OR SUB-
3 SEQUENT REMOVAL.—Any alien not
4 described in clause (i) who has been
5 ordered removed under section 240 or
6 any other provision of law, who has
7 departed the United States while an
8 order of removal was outstanding,
9 who has been removed more than one
10 time from the United States, and who
11 again seeks admission more than 10
12 years after the date of such removal is
13 inadmissible.】

14 【“(III) AGGRAVATED FELONS
15 WHO SEEK ADMISSION AFTER RE-
16 MOVAL.—Any alien not described in
17 clause (i) who has been ordered re-
18 moved under section 240 or any other
19 provision of law, who has departed the
20 United States while an order of re-
21 moval was outstanding, who is an ag-
22 gravated felon, and who again seeks
23 admission at anytime after the date of
24 such removal is inadmissible.】

1 【“(iii) EXCEPTION.—Clauses (i)(I)
2 shall not apply to an alien seeking admis-
3 sion within 5 years from the date of such
4 removal and clause (ii)(I) shall not apply
5 to an alien seeking admission after 10
6 years from the date of such removal if,
7 prior to the date of the alien’s 【reembar-
8 kation at a place outside of the United
9 States or attempt to be admitted from for-
10 eign contiguous territory】, the Secretary of
11 Homeland Security has consented to the
12 alien’s reapplying for admission.”.】

13 **SEC. 407. FREEZING BANK ACCOUNTS OF INTERNATIONAL**
14 **CRIMINAL ORGANIZATIONS AND MONEY**
15 **LAUNDERERS.**

16 Section 981(b) of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(5)(A) If a person is arrested or charged in connec-
19 tion with an offense described in subparagraph (C) involv-
20 ing the movement of funds into or out of the United
21 States, the Attorney General may apply to any Federal
22 judge or magistrate judge in the district in which the ar-
23 rest is made or where the charges are filed for an ex parte
24 order restraining any account held by the person arrested
25 or charged for not more than 30 days, except that such

1 30-day time period may be extended for good cause shown
2 at a hearing conducted in the manner provided in rule
3 43(e) of the Federal Rules of Civil Procedure. The court
4 may receive and consider evidence and information sub-
5 mitted by the Government that would be inadmissible
6 under the Federal Rules of Evidence.

7 “(B) The application for a restraining order under
8 subparagraph (A) shall—

9 “(i) identify the offense for which the person
10 has been arrested or charged;

11 “(ii) identify the location and description of the
12 accounts to be restrained; and

13 “(iii) state that the restraining order is needed
14 to prevent the removal of the funds in the account
15 by the person arrested or charged, or by others asso-
16 ciated with such person, during the time needed by
17 the Government to conduct such investigation as
18 may be necessary to establish whether there is prob-
19 able cause to believe that the funds in the accounts
20 are subject to forfeiture in connection with the com-
21 mission of any criminal offense.

22 “(C) An offense described in this subparagraph is any
23 offense for which forfeiture is authorized under this title,
24 title 31, or the Controlled Substances Act (21 U.S.C. 801
25 et seq.).

1 “(D) For purposes of this section—

2 “(i) the term ‘account’ includes any safe deposit
3 box and any account (as defined in paragraphs (1)
4 and (2) of section 5318A(e) of title 31, United
5 States Code) at any financial institution; and

6 “(ii) the term ‘account held by the person ar-
7 rested or charged’ includes an account held in the
8 name of such person, and any account over which
9 such person has effective control as a signatory or
10 otherwise.

11 “(E) A restraining order issued under this paragraph
12 shall not be considered a ‘seizure’ for purposes of section
13 983(a).

14 “(F) A restraining order issued under this paragraph
15 may be executed in any district in which the subject ac-
16 count is found, or transmitted to the central authority of
17 any foreign State for service in accordance with any treaty
18 or other international agreement.”.

19 **SEC. 408. CRIMINAL PROCEEDS LAUNDERED THROUGH**
20 **PREPAID ACCESS DEVICES, DIGITAL CUR-**
21 **RENCIES, OR OTHER SIMILAR INSTRUMENTS.**

22 (a) IN GENERAL.—

23 (1) DEFINITIONS.—

24 (A) ADDITION OF ISSUERS, REDEEMERS,
25 AND CASHIERS OF PREPAID ACCESS DEVICES

1 AND DIGITAL CURRENCIES TO THE DEFINITION
2 OF FINANCIAL INSTITUTIONS.—Subparagraph
3 (K) of section 5312(a)(2) of title 31, United
4 States Code, is amended to read as follows:

5 “(K) an issuer, redeemer, or cashier of
6 travelers’ checks, checks, money orders, prepaid
7 access devices, digital currencies, or other simi-
8 lar instruments;”.

9 (B) ADDITION OF PREPAID ACCESS DE-
10 VICES TO THE DEFINITION OF MONETARY IN-
11 STRUMENTS.—Subparagraph (B) of section
12 5312(a)(3) of title 31, United States Code, is
13 amended by inserting “prepaid access devices,”
14 after “delivery,”.

15 (C) DEFINITION OF PREPAID ACCESS DE-
16 VICE.—Subsection (a) of section 5312 of title
17 31, United States Code, is amended—

18 (i) by redesignating paragraph (6) as
19 paragraph (7); and

20 (ii) by inserting after paragraph (5)
21 the following:

22 “(6) ‘prepaid access device’ means an electronic
23 device or vehicle, such as a card, plate, code, num-
24 ber, electronic serial number, mobile identification
25 number, personal identification number, or other in-

1 strument that provides a portal to funds or the value
2 of funds that have been paid in advance and can be
3 retrievable and transferable at some point in the fu-
4 ture.”.

5 (2) REPORTS.—

6 (A) GOVERNMENT ACCOUNTABILITY OF-
7 FICE REPORT.—Not later than 18 months after
8 the date of the enactment of this Act, the
9 Comptroller General of the United States shall
10 submit to Congress a report on—

11 (i) the impact of amendments made
12 by paragraph (1) on law enforcement, the
13 prepaid access device industry, and con-
14 sumers; and

15 (ii) the implementation and enforce-
16 ment by the Department of the Treasury
17 of the final rule relating to “Bank Secrecy
18 Act—Definitions and Other Regulations
19 Relating to Prepaid Access” (76 Fed. Reg.
20 45403 (July 29, 2011)).

21 (B) DEPARTMENT OF HOMELAND SECU-
22 RITY REPORT.—Not later than 18 months after
23 the date of the enactment of this Act, the Sec-
24 retary, in consultation with the Commissioner

1 of U.S. Customs and Border Protection, shall
2 submit to Congress a report that includes—

3 (i) a detailed strategy to interdict and
4 detect prepaid access devices, digital cur-
5 rencies, or other similar instruments, at
6 border crossings and other ports of entry
7 for the United States; and

8 (ii) an assessment of the infrastruc-
9 ture needed to carry out such strategy.

10 (C) PREPAID ACCESS DEVICE DEFINED.—

11 In this paragraph, the term “prepaid access de-
12 vice” has the meaning given the term in section
13 5312(a) of title 31, United States Code, as
14 amended by subsection (a)(1)(C).

15 (b) MONEY SMUGGLING THROUGH BLANK CHECKS
16 IN BEARER FORM.—Section 5316 of title 31, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
20 BLANK.—For purposes of this section, a monetary instru-
21 ment in bearer form that has the amount left blank, such
22 that the amount could be filled in by the bearer, shall be
23 considered to have a value of more than \$10,000 if the
24 monetary instrument was drawn on an account that con-

1 tained or was intended to contain more than \$10,000 at
2 the time the monetary instrument was—

3 “(1) transported; or

4 “(2) negotiated [or intended to be negotiated
5 **【Note: See above.】】**.”.

6 **SEC. 409. CLOSING THE LOOPHOLE ON DRUG CARTEL AS-**
7 **SOCIATES ENGAGED IN MONEY LAUNDERING.**

8 (a) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
9 title 18, United States Code, is amended by inserting “,
10 and regardless of whether or not the person knew that
11 the activity constituted a felony” before the semicolon at
12 the end.

13 (b) INTENT TO CONCEAL OR DISGUISE.—Section
14 1956(a) of title 18, United States Code, is amended—

15 (1) in paragraph (1)(B), by striking “(B) know-
16 ing that” and all that follows through “Federal
17 law,” and inserting the following:

18 “(B) knowing that the transaction—

19 “(i) conceals or disguises, or is intended to
20 conceal or disguise, the nature, source, location,
21 ownership, or control of the proceeds of some
22 form of unlawful activity; or

23 “(ii) avoids, or is intended to avoid, a
24 transaction reporting requirement under State
25 or Federal law,”; and

1 (2) in paragraph (2)(B), by striking “(B) know-
2 ing that” and all that follows through “Federal
3 law,” and inserting the following:

4 “(B) knowing that the monetary instrument or
5 funds involved in the transportation, transmission,
6 or transfer represent the proceeds of some form of
7 unlawful activity, and knowing that such transpor-
8 tation, transmission, or transfer—

9 “(i) conceals or disguises, or is intended to
10 conceal or disguise, the nature, source, location,
11 ownership, or control of the proceeds of some
12 form of unlawful activity; or

13 “(ii) avoids, or is intended to avoid, a
14 transaction reporting requirement under State
15 or Federal law.”.

16 **TITLE V—PROTECTING NA-**
17 **TIONAL SECURITY AND PUB-**
18 **LIC SAFETY**

19 **SEC. 501. DEFINITION OF ENGAGING IN TERRORIST ACTIV-**
20 **ITY.**

21 Subclause (I) of section 212(a)(3)(B)(iv) of the Im-
22 migration and Nationality Act (8 U.S.C.
23 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

24 “(I) to commit or, under cir-
25 cumstances indicating an intention to

1 cause death or serious bodily harm,
2 **["incite another person to commit"]** a
3 terrorist activity.”.

4 SEC. 502. DETENTION OF DEPORTABLE ALIENS TO PRO-
5 TECT PUBLIC SAFETY.

6 (a) DETENTION, RELEASE, AND REMOVAL OF
7 ALIENS ORDERED REMOVED.—

8 (1) REMOVAL PERIOD.—

9 (A) IN GENERAL.—Subparagraph (A) of
10 section 241(a)(1) of the Immigration and Na-
11 tionality Act (8 U.S.C. 1231(a)(1)(A)) is
12 amended by striking “Attorney General” and
13 inserting “Secretary of Homeland Security”.

(B) BEGINNING OF PERIOD.—Subpara-
graph (B) of section 241(a)(1) of the Immigra-
tion and Nationality Act (8 U.S.C.
1231(a)(1)(B)) is amended to read as follows:

18 “(B) BEGINNING OF PERIOD.—

19 “(i) IN GENERAL.—Subject to clause
20 (ii), the removal period begins on the date
21 that is latest of the following:

22 “(I) The date the order of re-
23 moval becomes administratively final.

24 “(II) If a court, the Board of Im-
25 migration Appeals, or an immigration

1 judge orders a stay of the removal of
2 the alien, the date the stay of removal
3 is no longer in effect.

4 “(III) If the alien is detained or
5 confined (except under an immigra-
6 tion process), the date the alien is re-
7 leased from detention or confinement.

8 “(IV) The date the Secretary of
9 Homeland Security takes the alien
10 into custody for removal.

11 “(ii) BEGINNING OF REMOVAL PERIOD
12 FOLLOWING A TRANSFER OF CUSTODY.—If
13 the Secretary transfers custody of the alien
14 pursuant to law to another Federal agency
15 or to an agency of a State or local govern-
16 ment in connection with the official duties
17 of such agency, the removal period for the
18 alien—

19 “(I) shall be tolled; and

20 “(II) shall begin anew on the
21 date the alien is returned to the cus-
22 tody of the Secretary, [subject to
23 clause (i)(II).]”.

24 (C) SUSPENSION OF PERIOD.—Subpara-
25 graph (C) of section 241(a)(1) of the Immigra-

1 tion and Nationality Act (8 U.S.C.
2 1231(a)(1)(C)) is amended to read as follows:

3 “(C) SUSPENSION OF PERIOD.—The re-
4 moval period shall be extended beyond a period
5 of 90 days and the alien may remain in deten-
6 tion during such extended period if the alien—

7 “(i) fails or refuses to make all rea-
8 sonable efforts to comply with the order of
9 removal or to fully cooperate with the ef-
10 forts of the Secretary of Homeland Secu-
11 rity to establish the alien’s identity and
12 carry out the order of removal, including
13 making timely application in good faith for
14 travel or other documents necessary to the
15 alien’s departure; or

16 “(ii) conspires or acts to prevent the
17 alien’s removal subject to an order of re-
18 moval.”.

19 (2) DETENTION.—Paragraph (2) of section
20 241(a) of the Immigration and Nationality Act (8
21 U.S.C. 1231(a)(2)) is amended—

22 (A) by striking “During” and inserting the
23 following:

24 “(A) IN GENERAL.—”;

1 (B) by striking “Attorney General” and in-
2 serting “Secretary of Homeland Security”; and

3 (C) by adding at the end the following:

4 “(B) DURING A PENDENCY OF A STAY.—

5 If a court, the Board of Immigration Appeals,
6 or an immigration judge orders a stay of re-
7 moval of an alien who is subject to an adminis-
8 tratively final order of removal, the Secretary of
9 Homeland Security in the exercise of discretion
10 may detain the alien during the pendency of
11 such stay of removal.”.

12 (3) SUSPENSION AFTER 90-DAY PERIOD.—Para-
13 graph (3) of section 241(a) of the Immigration and
14 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

15 (A) in the matter preceding subparagraph
16 (A), by striking “Attorney General” and insert-
17 ing “Secretary of Homeland Security”;

18 (B) in subparagraph (C), by striking “At-
19 torney General” and inserting “Secretary”; and

20 (C) by amending subparagraph (D) to read
21 as follows:

22 “(D) to obey reasonable restrictions on the
23 alien’s conduct or activities, or to perform af-
24 firmative acts, that the Secretary prescribes for
25 the alien, in order to prevent the alien from ab-

1 scending, for the protection of the community,
2 or for other purposes related to the enforcement
3 of the immigration laws.”.

4 (4) ALIENS IMPRISONED, ARRESTED, OR ON PA-
5 ROLE, SUPERVISED RELEASE, OR PROBATION.—
6 Paragraph (4) of section 241(a) of the Immigration
7 and Nationality Act (8 U.S.C. 1231(a)(4)) is
8 amended—

9 (A) in subparagraph (A), by striking “At-
10 torney General” and inserting “Secretary of
11 Homeland Security”; and

12 (B) in subparagraph (B)—

13 (i) in the matter preceding clause (i),
14 by striking “Attorney General” and insert-
15 ing “Secretary of Homeland Security”;

16 (I) in clause (i), by striking “if
17 the Attorney General” and inserting
18 “if the Secretary”; and

19 (II) in clause (ii)(III), by striking
20 “Attorney General” and inserting
21 “Secretary”.

22 (5) REINSTATEMENT OF REMOVAL ORDERS
23 AGAINST ALIENS ILLEGALLY REENTERING.—Para-
24 graph (5) of section 241(a) of the Immigration and
25 Nationality Act (8 U.S.C. 1231(a)(5)) is amended

1 by striking “Attorney General” and inserting “Sec-
2 retary of Homeland Security”.

3 (6) INADMISSIBLE OR CRIMINAL ALIENS.—
4 Paragraph (6) of section 241(a) of the Immigration
5 and Nationality Act (8 U.S.C. 1231(a)(6)) is
6 amended—

7 (A) by striking “Attorney General” and in-
8 serting “Secretary of Homeland Security”; and

9 (B) by striking “removal period and, if re-
10 leased,” and inserting “removal period, in the
11 discretion of the Secretary, without any limita-
12 tions other than those specified in this section,
13 until the alien is removed. If an alien is re-
14 leased, the alien”.

15 (7) PAROLE; ADDITIONAL RULES; JUDICIAL RE-
16 VIEW.—Subsection (a) of section 241 of the Immi-
17 gration and Nationality Act (8 U.S.C. 1231(a)) is
18 amended—

19 (A) in paragraph (7), by striking “Attor-
20 ney General” and inserting “Secretary of
21 Homeland Security”;

22 (B) by redesignating paragraph (7) as
23 paragraph (10); and

24 (C) by inserting after paragraph (6) the
25 following:

1 “(7) PAROLE.—If an alien detained pursuant to
2 paragraph (6) is an applicant for admission, the
3 Secretary of Homeland Security, in the Secretary’s
4 discretion, may parole the alien under section
5 212(d)(5) and may provide, notwithstanding section
6 212(d)(5), that the alien shall not be returned to
7 custody unless either the alien violates the conditions
8 of such parole or the alien’s removal becomes rea-
9 sonably foreseeable, provided that in no cir-
10 cumstance shall such alien be considered admitted.

11 “(8) ADDITIONAL RULES FOR DETENTION OR
12 RELEASE OF CERTAIN ALIENS WHO HAVE MADE AN
13 ENTRY.—

14 “(A) APPLICATION.—The procedures set
15 out under this paragraph—

16 “(i) apply only to an alien who has ef-
17 fected an entry into the United States; and

18 “(ii) do not apply to any other alien,
19 including an alien detained pursuant to
20 paragraph (6).

21 “(B) ESTABLISHMENT OF A DETENTION
22 REVIEW PROCESS FOR ALIENS WHO FULLY CO-
23 OPERATE WITH REMOVAL.—

24 “(i) REQUIREMENT TO ESTABLISH.—

25 For an alien who has made all reasonable

1 efforts to comply with a removal order and
2 to cooperate fully with the efforts of the
3 Secretary of Homeland Security to estab-
4 lish the alien’s identity and carry out the
5 removal order, including making timely ap-
6 plication in good faith for travel or other
7 documents necessary to the alien’s depar-
8 ture, and has not conspired or acted to
9 prevent removal, the Secretary shall estab-
10 lish an administrative review process to de-
11 termine whether the alien should be de-
12 tained or released on conditions.

13 “(ii) DETERMINATIONS.—The Sec-
14 retary—

15 “(I) make a determination
16 whether to release an alien described
17 in clause (i) after the end of the
18 alien’s removal period [in accordance
19 with paragraph (1)(B)]; and

20 “(II) in making a determination
21 under subclause (I), shall consider
22 any evidence submitted by the alien,
23 and may consider any other evidence,
24 including any information or assist-
25 ance provided by the Department of

1 State or other Federal agency and
2 any other information available to the
3 Secretary pertaining to the ability to
4 remove the alien.

5 “(C) AUTHORITY TO DETAIN BEYOND THE
6 REMOVAL PERIOD.—

7 “(i) IN GENERAL.—The Secretary of
8 Homeland Security, in the exercise of dis-
9 cretion, without any limitations other than
10 those specified in this section, may con-
11 tinue to detain an alien for 90 days beyond
12 the removal period (including any exten-
13 sion of the removal period as provided in
14 subsection (a)(1)(C)).

15 “(ii) LENGTH OF DETENTION.—The
16 Secretary, in the exercise of discretion,
17 without any limitations other than those
18 specified in this section, may continue to
19 detain an alien beyond the 90 days author-
20 ized in clause (i)—

21 “(I) until the alien is removed, if
22 the Secretary determines that there is
23 a significant likelihood that the
24 alien—

1 “(aa) will be removed in the
2 reasonably foreseeable future; or

3 “(bb) would be removed in
4 the reasonably foreseeable future,
5 or would have been removed, but
6 for the alien’s failure or refusal
7 to make all reasonable efforts to
8 comply with the removal order,
9 or to cooperate fully with the
10 Secretary’s efforts to establish
11 the alien’s identity and carry out
12 the removal order, including
13 making timely application in
14 good faith for travel or other doc-
15 uments necessary to the alien’s
16 departure, or conspiracies or acts
17 to prevent removal;

18 “(II) until the alien is removed,
19 if the Secretary certifies in writing—

20 “(aa) in consultation with
21 the Secretary of Health and
22 Human Services, that the alien
23 has a highly contagious disease
24 that poses a threat to public safe-
25 ty;

1 “(bb) after receipt of a writ-
2 ten recommendation from the
3 Secretary of State, that release
4 of the alien is likely to have seri-
5 ous adverse foreign policy con-
6 sequences for the United States;

7 “(cc) based on information
8 available to the Secretary of
9 Homeland Security (including
10 classified, sensitive, or national
11 security information, and without
12 regard to the grounds upon
13 which the alien was ordered re-
14 moved), that there is reason to
15 believe that the release of the
16 alien would threaten the national
17 security of the United States; or

18 “(dd) that the release of the
19 alien will threaten the safety of
20 the community or any person,
21 conditions of release cannot rea-
22 sonably be expected to ensure the
23 safety of the community or any
24 person, and either—

1 “(AA) the alien has
2 been convicted of 1 or more
3 aggravated felonies (as de-
4 fined in section
5 101(a)(43)(A)), 1 or more
6 crimes identified by the Sec-
7 retary of Homeland Security
8 by regulation, or 1 or more
9 attempts or conspiracies to
10 commit any such aggravated
11 felonies or such identified
12 crimes, provided that the ag-
13 gregate term of imprison-
14 ment for such attempts or
15 conspiracies is at least 5
16 years; or

17 “(BB) the alien has
18 committed 1 or more crimes
19 of violence (as defined in
20 section 16 of title 18,
21 United States Code, but not
22 including a purely political
23 offense) and, because of a
24 mental condition or person-
25 ality disorder and behavior

1 associated with that condi-
2 tion or disorder, the alien is
3 likely to engage in acts of vi-
4 olence in the future; or

5 “(ee) that the release of the
6 alien will threaten the safety of
7 the community or any person,
8 conditions of release cannot rea-
9 sonably be expected to ensure the
10 safety of the community or any
11 person, and the alien has been
12 convicted of at least 1 aggravated
13 felony (as defined in section
14 101(a)(43)); and

15 “(III) pending a determination
16 under subclause (II), if the Secretary
17 has initiated the administrative review
18 process not later than 30 days after
19 the expiration of the removal period
20 (including any extension of the re-
21 moval period as provided in subsection
22 (a)(1)(C)).

23 “(D) RENEWAL AND DELEGATION OF CER-
24 TIFICATION.—

1 “(i) RENEWAL.—The Secretary of
2 Homeland Security may renew a certifi-
3 cation under subparagraph (C)(ii)(II)
4 every 6 months without limitation, after
5 providing an opportunity for the alien to
6 request reconsideration of the certification
7 and to submit documents or other evidence
8 in support of that request. If the Secretary
9 does not renew a certification, the Sec-
10 retary may not continue to detain the alien
11 under subparagraph (C)(ii)(II).

12 “(ii) DELEGATION.—Notwithstanding
13 section 103, the Secretary of Homeland
14 Security may not delegate the authority to
15 make or renew a certification described in
16 item (bb), (cc), or (dd) of subparagraph
17 (C)(ii)(II) to an official below the level of
18 the **【Assistant Secretary for/Director of】**
19 U.S. Immigration and Customs Enforce-
20 ment.

21 “(iii) HEARING.—The Secretary of
22 Homeland Security may request that the
23 Attorney General **【or a designee of the At-**
24 **torney General】** provide for a hearing to

1 make the determination described in sub-
2 paragraph (C)(ii)(II)(dd)(BB).

3 “(E) RELEASE ON CONDITIONS.—If it is
4 determined that an alien should be released
5 from detention, the Secretary of Homeland Se-
6 curity, in the exercise of discretion, may impose
7 conditions on release as provided in paragraph
8 (3).

9 “(F) REDETENTION.—The Secretary of
10 Homeland Security, in the exercise of discre-
11 tion, without any limitations other than those
12 specified in this section, may again detain any
13 alien subject to a final removal order who is re-
14 leased from custody if the alien fails to comply
15 with the conditions of release or to continue to
16 satisfy the conditions described in subparagraph
17 (A), or if, upon reconsideration, the Secretary
18 determines that the alien can be detained under
19 subparagraph (B). Paragraphs (6) through (8)
20 shall apply to any alien returned to custody
21 pursuant to this subparagraph, as if the re-
22 moval period terminated on the day of the re-
23 detention.

24 “(G) CERTAIN ALIENS WHO EFFECTED
25 ENTRY.—If an alien has effected an entry but

1 has neither been lawfully admitted nor phys-
2 ically present in the United States continuously
3 for the 2-year period immediately prior to the
4 commencement of removal proceedings under
5 this Act or deportation proceedings against the
6 alien, the Secretary of Homeland Security in
7 the exercise of discretion may decide not to
8 apply paragraph (8) and detain the alien with-
9 out any limitations except those which the Sec-
10 retary shall adopt by regulation.

11 “(9) JUDICIAL REVIEW.—Without regard to the
12 place of confinement, judicial review of any action or
13 decision pursuant to paragraph (6), (7), or (8) shall
14 be available exclusively in habeas corpus proceedings
15 instituted in the United States District Court for the
16 District of Columbia, and only if the alien has ex-
17 hausted all administrative remedies (statutory and
18 regulatory) available to the alien as of right.”.

19 (b) DETENTION OF ALIENS DURING REMOVAL PRO-
20 CEEDINGS.—

21 (1) IN GENERAL.—Section 235 of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1225) is amend-
23 ed by adding at the end the following:

24 “(e) LENGTH OF DETENTION.—

1 “(1) IN GENERAL.—An alien may be detained
2 under this section while proceedings are pending,
3 without limitation, until the alien is subject to an
4 administratively final order of removal.

5 “(2) EFFECT ON DETENTION UNDER SECTION
6 241.—The length of detention under this section
7 shall not affect the validity of any detention under
8 section 241.

9 “(f) JUDICIAL REVIEW.—Without regard to the place
10 of confinement, judicial review of any action or decision
11 made pursuant to subsection (e) shall be available exclu-
12 sively in a habeas corpus proceeding instituted in the
13 United States District Court for the District of Columbia
14 and only if the alien has exhausted all administrative rem-
15 edies (statutory and nonstatutory) available to the alien
16 as of right.”.

17 (2) CONFORMING AMENDMENTS.—Section 236
18 of the Immigration and Nationality Act (8 U.S.C.
19 1226) is amended—

20 (A) in subsection (e), by inserting “With-
21 out regard to the place of confinement, judicial
22 review of any action or decision made pursuant
23 to section 235(f) shall be available exclusively in
24 a habeas corpus proceeding instituted in the
25 United States District Court for the District of

1 Columbia, and only if the alien has exhausted
2 all administrative remedies (statutory and non-
3 statutory) available to the alien as of right.” at
4 the end; and

5 (B) by adding at the end the following:

6 “(f) LENGTH OF DETENTION.—

7 “(1) IN GENERAL.—An alien may be detained
8 under this section, without limitation, until the alien
9 is subject to an administratively final order of re-
10 moval.

11 “(2) EFFECT ON DETENTION UNDER SECTION
12 241.—The length of detention under this section
13 shall not affect the validity of any detention under
14 section 241.”.

15 (c) EFFECTIVE DATES AND APPLICATION.—

16 (1) AMENDMENTS MADE BY SUBSECTION (A).—
17 The amendments made by subsection (a) shall take
18 effect on the date of the enactment of this Act, and
19 section 241 of the Immigration and Nationality Act,
20 as amended by subsection (a), shall apply to—

21 (A) all aliens subject to a final administra-
22 tive removal, deportation, or exclusion order
23 that was issued before, on, or after the date of
24 the enactment of this Act; and

1 (B) acts and conditions occurring or exist-
2 ing before, on, or after the date of the enact-
3 ment of this Act.

4 (2) AMENDMENTS MADE BY SUBSECTION (B).—

5 The amendments made by subsection (b) shall take
6 effect upon the date of the enactment of this Act,
7 and sections 235 and 236 of the Immigration and
8 Nationality Act, as amended by subsection (b), shall
9 apply to any alien in detention under provisions of
10 such sections on or after the date of the enactment
11 of this Act.

12 **SEC. 503. CRIMINAL DETENTION OF ALIENS TO PROTECT**
13 **PUBLIC SAFETY.**

14 (a) IN GENERAL.—Section 3142(e) of title 18,
15 United States Code, is amended to read as follows:

16 “(e) DETENTION.—

17 “(1) IN GENERAL.—If, after a hearing pursu-
18 ant to the provisions of subsection (f), the judicial
19 officer finds that no condition or combination of con-
20 ditions will reasonably assure the appearance of the
21 person as required and the safety of any other per-
22 son and the community, such judicial officer shall
23 order the detention of the person before trial.

24 “(2) PRESUMPTION ARISING FROM OFFENSES
25 DESCRIBED IN SUBSECTION (F)(1).—In a case de-

1 scribed in subsection (f)(1) of this section, a rebutta-
2 ble presumption arises that no condition or combina-
3 tion of conditions will reasonably assure the safety
4 of any other person and the community if such judi-
5 cial officer finds that—

6 “(A) the person has been convicted of a
7 Federal offense that is described in subsection
8 (f)(1), or of a State or local offense that would
9 have been an offense described in subsection
10 (f)(1) if a circumstance giving rise to Federal
11 jurisdiction had existed;

12 “(B) the offense described in subparagraph
13 (A) was committed while the person was on re-
14 lease pending trial for a Federal, State, or local
15 offense; and

16 “(C) a period of not more than 5 years has
17 elapsed since the date of conviction or the re-
18 lease of the person from imprisonment, for the
19 offense described in subparagraph (A), which-
20 ever is later.

21 “(3) PRESUMPTION ARISING FROM OTHER OF-
22 FENSES INVOLVING ILLEGAL SUBSTANCES, FIRE-
23 ARMS, VIOLENCE, OR MINORS.—Subject to rebuttal
24 by the person, it shall be presumed that no condition
25 or combination of conditions will reasonably assure

1 the appearance of the person as required and the
2 safety of the community if the judicial officer finds
3 that there is probable cause to believe that the per-
4 son committed—

5 “(A) an offense for which a maximum
6 term of imprisonment of 10 years or more is
7 prescribed in the Controlled Substances Act (21
8 U.S.C. 801 et seq.), the Controlled Substances
9 Import and Export Act (21 U.S.C. 951 et seq.),
10 or chapter 705 of title 46;

11 “(B) an offense under section 924(c),
12 956(a), or 2332b of this title;

13 “(C) an offense listed in section
14 2332b(g)(5)(B) of this title for which a max-
15 imum term of imprisonment of 10 years or
16 more is prescribed; or

17 “(D) an offense involving a minor victim
18 under section 1201, 1591, 2241, 2242,
19 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1),
20 2252(a)(2), 2252(a)(3), 2252A(a)(1),
21 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
22 2421, 2422, 2423, or 2425 of this title.

23 “(4) PRESUMPTION ARISING FROM OFFENSES
24 RELATING TO IMMIGRATION LAW.—Subject to rebut-
25 tal by the person, it shall be presumed that no con-

1 dition or combination of conditions will reasonably
2 assure the appearance of the person as required if
3 the judicial officer finds that there is probable cause
4 to believe that the person is an alien and that the
5 person—

6 “(A) has no lawful immigration status in
7 the United States;

8 “(B) is the subject of a final order of re-
9 moval; or

10 “(C) has committed a felony offense under
11 section 842(i)(5), 911, 922(g)(5), 1015, 1028,
12 1028A, 1425, or 1426 of this title, or any sec-
13 tion of chapters 75 and 77 of this title, or sec-
14 tion 243, 274, 275, 276, 277, or 278 of the Im-
15 migration and Nationality Act (8 U.S.C. 1253,
16 1324, 1325, 1326, 1327, and 1328).”.

17 (b) IMMIGRATION STATUS AS FACTOR IN DETER-
18 MINING CONDITIONS OF RELEASE.—Section 3142(g)(3)
19 of title 18, United States Code, is amended—

20 (1) in subparagraph (A), by striking “and” at
21 the end; and

22 (2) by adding at the end the following:

23 “(C) whether the person is in a lawful im-
24 migration status, has previously entered the
25 United States illegally, has previously been re-

1 moved from the United States, or has otherwise
2 violated the conditions of his or her lawful im-
3 migration status; and”.

4 **SEC. 504. RECRUITMENT OF PERSONS TO PARTICIPATE IN**
5 **TERRORISM.**

6 (a) IN GENERAL.—Chapter 113B of title 18, United
7 States Code, is amended by inserting after section 2332b
8 the following:

9 **“§ 2332. Recruitment of persons to participate in ter-**
10 **rorism**

11 **“(a) OFFENSES.—**

12 **“(1) IN GENERAL.—**It shall be unlawful for any
13 person to employ, solicit, induce, command, or cause
14 another person to commit an act of domestic ter-
15 rorism or international terrorism or a Federal crime
16 of terrorism, with the intent that the other person
17 commit such act or crime of terrorism.

18 **“(2) ATTEMPT AND CONSPIRACY.—**It shall be
19 unlawful for any person to attempt or conspire to
20 commit an offense under paragraph (1).

21 **“(b) PENALTIES.—**Any person who violates sub-
22 section (a)—

23 **“(1)** in the case of an attempt or conspiracy,
24 shall be fined under this title, imprisoned not more
25 than 10 years, or both;

1 “(2) if death of an individual results, shall be
2 fined under this title, punished by death or impris-
3 oned for any term of years or for life, or both;

4 “(3) if serious bodily injury to any individual
5 results, shall be fined under this title, imprisoned
6 not less than 10 years nor more than 25 years, or
7 both; and

8 “(4) in any other case, shall be fined under this
9 title, imprisoned not more than 10 years, or both.

10 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed or applied so as to abridge the ex-
12 ercise of rights guaranteed under the First Amendment
13 to the Constitution of the United States.

14 “(d) LACK OF CONSUMMATED TERRORIST ACT NOT
15 A DEFENSE.—It is not a defense under this section that
16 the act of domestic terrorism or international terrorism
17 or Federal crime of terrorism that is the object of the em-
18 ployment, solicitation, inducement, commanding, or caus-
19 ing has not been done.

20 “(e) DEFINITIONS.—In this section—

21 “(1) the term ‘Federal crime of terrorism’ has
22 the meaning given that term in section 2332b; and

23 “(2) the term ‘serious bodily injury’ has the
24 meaning given that term in section 1365.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
2 The table of sections at the beginning of chapter 113B
3 of title 18, United States Code, is amended by inserting
4 after the item relating to section 2332b the following:

“2332c. Recruitment of persons to participate in terrorism.”.

5 **SEC. 505. BARRING AND REMOVING PERSECUTORS FROM**
6 **THE UNITED STATES.**

7 (a) INADMISSIBILITY OF PERSECUTORS.—Subpara-
8 graph (E) of section 212(a)(3) of the Immigration and
9 Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

10 (1) by striking “NAZI” in the subparagraph
11 heading; and

12 (2) by adding at the end the following:

13 “(iv) PERSECUTORS.—Any alien who
14 ordered, incited, assisted, or otherwise par-
15 ticipated in the persecution of any person
16 on account of race, religion, nationality,
17 membership in a particular social group, or
18 political opinion is inadmissible.”.

19 (b) BARRING WAIVER OF INADMISSIBILITY FOR PER-
20 SECUTORS.—Subparagraph (A) of section 212(d) of the
21 Immigration and Nationality Act (8 U.S.C.
22 1182(d)(3)(A)) is amended by striking “and clauses (i)
23 and (ii) of paragraph (3)(E)” [both places that term ap-
24 pears] and inserting “(3)(E)”.

1 (c) REMOVAL OF PERSECUTORS.—Subparagraph (D)
2 of section 237(a)(4) of the Immigration and Nationality
3 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

4 (1) by striking “NAZI” in the subparagraph
5 heading; and

6 (2) by striking “or (iii)” and inserting “(iii), or
7 (iv)”.

8 (d) BARRING PERSECUTORS FROM ESTABLISHING
9 GOOD MORAL CHARACTER.—Subsection (f) of section 101
10 of the Immigration and Nationality Act (8 U.S.C.
11 1101(f)), as amended by section 612(c), is further amend-
12 ed—

13 (1) in paragraph (9), by striking the period at
14 the end and inserting a semicolon; and

15 (2) by inserting after paragraph (9) the fol-
16 lowing:

17 “(10) one who at any time ordered, incited, as-
18 sisted, or otherwise participated in the persecution
19 of any person on account of race, religion, nation-
20 ality, membership in a particular social group, or po-
21 litical opinion is inadmissible; or”.

22 (e) BARRING PERSECUTORS FROM OBTAINING VOL-
23 UNTARY DEPARTURE.—Section 240B of the Immigration
24 and Nationality Act (8 U.S.C. 1229c) is amended—

235

1 (1) in subsection (a)(1) by striking “deportable
2 under section 237(a)(2)(A)(iii) or section
3 237(a)(4)(B).” and inserting “deportable under
4 paragraph (2)(A)(iii), (4)(B), or (4)(D) of section
5 237(a) or inadmissible under 212(a)(3)(E).”; and

6 (2) in subsection (b)(1)(C), by striking “deport-
7 able under section 237(a)(2)(A)(iii) or section
8 237(a)(4);” and inserting **“deportable under/de-**
9 **scribed in paragraph (2)(A)(iii) or (4) of section**
10 **237(a) or inadmissible under 212(a)(3)(E);”**.

11 ***【Note: Conflicting amendments were made to section***
12 ***240B(b)(1)(C) of the INA by this section and section***
13 ***505. The language is combined here and the amend-***
14 ***ment made by section 505 is deleted.*】**

15 **【(f) BARRING PERSECUTORS FROM ADJUSTMENT OF**
16 **STATUS.—Subsection (c) of section 245 of the Immigra-**
17 **tion and Nationality Act (8 U.S.C. 1255(c)) is amended—**
18 **】**

19 **【(1) in paragraph (7), by striking “or” at the**
20 **end;】**

21 **【(2) in paragraph (8), by striking the period at**
22 **the end and inserting “; or (9) an alien who at any**
23 **time has ordered, incited, assisted, or otherwise par-**
24 **ticipated in the persecution of any person on account**
25 **of race, religion, nationality, membership in a par-**

1 ticular social group, or political opinion.”. **【Note:**
2 *Section 245(c) of the INA is struck and replaced by*
3 *the amendment made by section 601(b). If you retain*
4 *this subsection, it should be included in the amend-*
5 *ment made by section 601(b).】*

6 (g) INCREASING CRIMINAL PENALTIES FOR ANYONE
7 WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—
8 Section 277 of the Immigration and Nationality Act (8
9 U.S.C. 1327) is amended by striking “(other than sub-
10 paragraph (E) thereof)”.

11 **SEC. 506. INCREASED CRIMINAL PENALTIES RELATED TO**
12 **GANG VIOLENCE AND REMOVAL.**

13 (a) DEFINITION OF CRIMINAL GANG.—Section
14 101(a) of the Immigration and Nationality Act (8 U.S.C.
15 1101(a)) is amended by inserting after subparagraph (52)
16 the following:

17 “(53)(A) The term ‘criminal gang’ means an
18 ongoing group, club, organization, or association of
19 5 or more persons that—

20 “(i) has as one of its primary purposes the
21 commission of 1 or more of the criminal of-
22 fenses set out under subparagraph (B) and the
23 members of which engage, or have engaged
24 within the past 5 years, in a continuing series
25 of such offenses; or

1 “(ii) has been designated as a criminal
2 gang by the Secretary of Homeland Security, in
3 consultation with the Attorney General, as
4 meeting criteria set out in clause (i).

5 “(B) The offenses described under this sub-
6 paragraph, whether in violation of Federal or State
7 law or the law of a foreign country and regardless
8 of whether the offenses occurred before, on, or after
9 the date of the enactment of the Building America’s
10 Trust through Border and National Security Act of
11 2017, are the following:

12 “(i) A ‘felony drug offense’ (as defined in
13 section 102 of the Controlled Substances Act
14 (21 U.S.C. 802)).

15 “(ii) An offense under section 274 (relat-
16 ing to bringing in and harboring certain aliens),
17 section 277 (relating to aiding or assisting cer-
18 tain aliens to enter the United States), or sec-
19 tion 278 (relating to importation of alien for
20 immoral purpose).

21 “(iii) A crime of violence (as defined in
22 section 16 of title 18, United States Code).

23 “(iv) A crime involving obstruction of jus-
24 tice, tampering with or retaliating against a
25 witness, victim, or informant, or burglary.

1 “(v) Any conduct punishable under sec-
2 tions 1028 and 1029 of title 18, United States
3 Code (relating to fraud and related activity in
4 connection with identification documents or ac-
5 cess devices), sections 1581 through 1594 of
6 such title (relating to peonage, slavery and traf-
7 ficking in persons), section 1952 of such title
8 (relating to interstate and foreign travel or
9 transportation in aid of racketeering enter-
10 prises), section 1956 of such title (relating to
11 the laundering of monetary instruments), sec-
12 tion 1957 of such title (relating to engaging in
13 monetary transactions in property derived from
14 specified unlawful activity), or sections 2312
15 through 2315 of such title (relating to inter-
16 state transportation of stolen motor vehicles or
17 stolen property).

18 “(vi) A conspiracy to commit an offense
19 described in clauses (i) through (v).

20 **【“(C) Notwithstanding any other provision of**
21 law (including any effective date), the term applies
22 regardless of whether the conduct occurred before,
23 on, or after the date of the enactment of the Build-
24 ing America’s Trust through Border and National
25 Security Act of 2017.”.】

1 (b) INADMISSIBILITY.—Paragraph (2) of section
2 212(a) of the Immigration and Nationality Act (8 U.S.C.
3 1182(a)(2)) is amended by adding at the end the fol-
4 lowing:

5 “(J) ALIENS ASSOCIATED WITH CRIMINAL
6 GANGS.—Any alien is inadmissible who a con-
7 sular officer, the Secretary of Homeland Secu-
8 rity, or the Attorney General knows or has rea-
9 son to believe—

10 “(i) to be or to have been a member
11 of a criminal gang; or

12 “(ii) to have participated in the activi-
13 ties of a criminal gang, knowing or having
14 reason to know that such activities will
15 promote, further, aid, or support the illegal
16 activity of the criminal gang.”.

17 (c) DEPORTABILITY.—Paragraph (2) of section
18 237(a) of the Immigration and Nationality Act (8 U.S.C.
19 1227(a)(2)) is amended by adding at the end the fol-
20 lowing:

21 “(G) ALIENS ASSOCIATED WITH CRIMINAL
22 GANGS.—Any alien is deportable who the Sec-
23 retary of Homeland Security or the Attorney
24 General knows or has reason to believe—

1 “(i) is or has been a member of a
2 criminal gang; or

3 “(ii) has participated in the activities
4 of a criminal gang knowing or having rea-
5 son to know that such activities will pro-
6 mote, further, aid, or support the illegal
7 activity of the criminal gang.”.

8 (d) DESIGNATION OF CRIMINAL **【STREET】**
9 GANGS.—

10 (1) IN GENERAL.—Chapter 2 of title II of the
11 Immigration and Nationality Act (8 U.S.C. 1181 et
12 seq.) is amended by adding at the end the following:

13 **“SEC. 220. DESIGNATION OF CRIMINAL **【STREET】** GANGS.**

14 “(a) IN GENERAL.—The Secretary of Homeland Se-
15 curity, in consultation with the Attorney General, and the
16 Secretary of State may designate a group or association
17 as a criminal street gang if their conduct is described in
18 section 101(a)(53) or if the group or association conduct
19 poses a significant risk that threatens the security and the
20 public safety of United States nationals or the national
21 security, homeland security, foreign policy, or economy of
22 the United States. **【Note: Are the groups designated as**
23 *‘criminal street gangs’* under this section intended to be dif-
24 *ferent groups than those found to be ‘criminal gangs’* under
25 *section new paragraph (53) of section 101(a) of the INA?* **】**

1 “(b) EFFECTIVE DATE.—Designations under sub-
2 section (a) shall remain in effect until the designation is
3 revoked after consultation between the Secretary of Home-
4 land Security, the Attorney General, and the Secretary of
5 State or is terminated in accordance with Federal law.”.

6 (2) TABLE OF CONTENTS AMENDMENT.—The
7 table of contents in the first section of the Immigra-
8 tion and Nationality Act is amended by inserting
9 after the item relating to section 219 the following:

“220. Designation of criminal **street** gangs.”

10 (e) ANNUAL REPORT ON DETENTION OF CRIMINAL
11 STREET GANG MEMBERS.—Not later than March 1 of
12 each year (beginning 1 year after the date of the enact-
13 ment of this Act), the Secretary, after consultation with
14 the heads of appropriate Federal agencies, shall submit
15 to the Committee on the Judiciary of the Senate and the
16 Committee on the Judiciary of the House of Representa-
17 tives a report on the number of aliens detained who are
18 described by subparagraph (J) of section 212(a)(2) and
19 subparagraph (G) of section 237(a)(2) of the Immigration
20 and Nationality Act (8 U.S.C. 1182(a)(2) and
21 1227(a)(2)), as added by subsections (b) and (c).

22 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
23 ATION.—

24 (1) INAPPLICABILITY OF RESTRICTION ON RE-
25 MOVAL TO CERTAIN COUNTRIES.—Subparagraph (B)

1 of section 241(b)(3) of the Immigration and Nation-
2 ality Act (8 U.S.C. 1231(b)(3)(B)) is amended, in
3 the matter preceding clause (i), by inserting “who is
4 described in section 212(a)(2)(J)(i) or section
5 237(a)(2)(G)(i) or who is” after “to an alien”.

6 (2) INELIGIBILITY FOR ASYLUM.—Subpara-
7 graph (A) of section 208(b)(2) of the Immigration
8 and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
9 amended—

10 (A) in clause (v), by striking “or” at the
11 end;

12 (B) by redesignating clause (vi) as clause
13 (vii); and

14 (C) by inserting after clause (v) the fol-
15 lowing:

16 “(vi) the alien is described in section
17 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
18 (relating to participation in criminal
19 gangs); or”.

20 (g) TEMPORARY PROTECTED STATUS.—Section 244
21 of the Immigration and Nationality Act (8 U.S.C. 1254a)
22 is amended—

23 (1) by striking “Attorney General” each place
24 that term appears and inserting “Secretary of
25 Homeland Security”;

1 (2) in subparagraph (c)(2)(B)—

2 (A) in clause (i), by striking “States, or”
3 and inserting “States;”;

4 (B) in clause (ii), by striking the period at
5 the end and inserting “; or”; and

6 (C) by adding at the end the following:

7 “(iii) the alien is, or at any time has
8 been, an alien described in section
9 212(a)(2)(J)(i) or section
10 237(a)(2)(G)(i).”.

11 (h) EFFECTIVE DATE AND APPLICATION.—The
12 amendments made by this section shall take effect on the
13 date of the enactment of this Act and shall apply to acts
14 that occur before, on, or after the date of the enactment
15 of this Act.

16 **SEC. 507. BARRING ALIENS WITH CONVICTIONS FOR DRIV-**
17 **ING UNDER THE INFLUENCE OR WHILE IN-**
18 **TOXICATED.**

19 (a) AGGRAVATED FELONY DRIVING WHILE INTOXI-
20 CATED.—

21 (1) DEFINITIONS.—Paragraph (43) of section
22 101(a) of the Immigration and Nationality Act (8
23 U.S.C. 1101(a)(43)) is amended—

24 (A) in subparagraph (T), by striking
25 “and”;

1 (B) in subparagraph (U), by striking the
2 period at the end and inserting “; and”; and

3 (C) by inserting after subparagraph (U)
4 the following:

5 “(V) a second or subsequent con-
6 viction for driving while intoxicated
7 (including a conviction for driving
8 while under the influence of or im-
9 paired by alcohol or drugs) without
10 regard to whether the conviction is
11 classified as a misdemeanor or felony
12 under State law.”.

13 (2) EFFECTIVE DATE AND APPLICATION.—The
14 amendments made by this section shall take effect
15 on the date of the enactment of this Act and apply
16 to any conviction entered on or after such date.

17 (b) INADMISSIBILITY FOR DRIVING WHILE INTOXI-
18 CATED OR UNDER THE INFLUENCE.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 212(a) of such Act (8 U.S.C. 1182(a)(2)), as
21 amended by section 506, is further amended by add-
22 ing at the end the following:

23 **【“(K) DRIVING WHILE INTOXICATED AND**
24 **WHILE UNLAWFULLY PRESENT IN THE UNITED**
25 **STATES.—An alien is inadmissible who—】**

1 【“(i) at the time of commission of the
2 offense is unlawfully present in the United
3 States; and】

4 【“(ii) is convicted of driving while in-
5 toxicated, driving under the influence, or
6 similar violation of State law (as deter-
7 mined by the Secretary of Homeland Secu-
8 rity).”.】

9 (2) APPLICATION.—The amendment made by
10 paragraph (1) shall apply to violations or refusals
11 occurring after the date of the enactment of this
12 Act.

13 (c) DEPORTATION FOR DRIVING WHILE INTOXI-
14 CATED OR UNDER THE INFLUENCE.—

15 (1) IN GENERAL.—Paragraph (2) of section
16 237(a) of the Immigration and Nationality Act (8
17 U.S.C. 1227(a)(2)), as amended by section 506, is
18 further amended by adding at the end the following:

19 “(H) DRIVING WHILE INTOXICATED AND
20 WHILE UNLAWFULLY PRESENT IN THE UNITED
21 STATES.—An alien is deportable who—

22 “(i) at the time of commission of the
23 offense is unlawfully present in the United
24 States; and

1 “(ii) is convicted of driving while in-
2 toxicated, driving under the influence, or
3 similar violation of State law (as deter-
4 mined by the Secretary of Homeland Secu-
5 rity).”.

6 (2) APPLICATION.—The amendment made by
7 paragraph (1) shall apply to violations or refusals
8 occurring after the date of the enactment of this
9 Act.

10 **[(d) GOOD MORAL CHARACTER BAR FOR DUI OR**
11 **DWI CONVICTIONS.—]**

12 **[(1) IN GENERAL.—**Subsection (f) of section
13 101 of the Immigration and Nationality Act (8
14 U.S.C. 1101(f)), as amended by section 612(c) and
15 section 505, is further amended by inserting after
16 paragraph (1) the following:**]**

17 **[(“(2) inadmissible under section 212(a)(2)(K)**
18 **or deportable under section 237(a)(2)(H);”.)]**

19 **[(e) TECHNICAL AND CONFORMING AMEND-**
20 **MENTS.—**Subsection (h) of section 212 of the Immigration
21 and Nationality Act (8 U.S.C. 1182(h)) is amended**—]**

22 **[(1) by inserting “or the Secretary of Home-**
23 **land Security” after “the Attorney General” each**
24 **place such term appears; and]**

1 【(2) in the matter preceding paragraph (1), by
2 striking “and (E)” and inserting “(E), and (K)”.】

(f) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

7 **SEC. 508. BARRING AGGRAVATED FELONS, BORDER CHECK-**
8 **POINT RUNNERS, AND SEX OFFENDERS FROM**
9 **ADMISSION TO THE UNITED STATES.**

(a) INADMISSIBILITY ON CRIMINAL AND RELATED
 GROUNDS; WAIVERS.—Section 212 of the Immigration
 and Nationality Act (8 U.S.C. 1182) is amended—

13 (1) in subsection (a)(2)—

14 (A) in subparagraph (A)(i)—

15 (i) in subclause (I), by striking “, or”
16 and inserting a semicolon;

17 (ii) in subclause (II), by striking the
18 comma at the end and inserting “; or”;

19 and

(iii) by inserting after subclause (II)

the following:

“(III) a violation of (or a conspiracy or attempt to violate) an offense described in section 208 of the Social Security Act (42 U.S.C. 408)

1 (relating to social security account
2 numbers or social security cards) or
3 section 1028 of title 18, United States
4 Code (relating to fraud and related
5 activity in connection with identifica-
6 tion documents, authentication fea-
7 tures, and information);” and

8 (B) by inserting after subparagraph (K),
9 as added by section 507, the following:

10 “(L) CITIZENSHIP FRAUD.—Any alien con-
11 victed of, or who admits having committed, or
12 who admits committing acts which constitute
13 the essential elements of, a violation of, or an
14 attempt or a conspiracy to violate, subsection
15 (a) or (b) of section 1425 of title 18, United
16 States Code, (relating to the procurement of
17 citizenship or naturalization unlawfully) is inad-
18 missible.

19 “(M) CERTAIN FIREARM OFFENSES.—Any
20 alien who at any time has been convicted under
21 any law of, or who admits having committed or
22 admits committing acts which constitute the es-
23 sential elements of, purchasing, selling, offering
24 for sale, exchanging, using, owning, possessing,
25 or carrying, or of attempting or conspiring to

1 purchase, sell, offer for sale, exchange, use,
2 own, possess, or carry, any weapon, part, or ac-
3 cessory which is a firearm or destructive device
4 (as defined in section 921(a) of title 18, United
5 States Code) in violation of any law is inadmis-
6 sible.

7 “(N) AGGRAVATED FELONS.—Any alien
8 who has been convicted of an aggravated felony
9 at any time is inadmissible.

10 “(O) HIGH SPEED FLIGHT.—Any alien
11 who has been convicted of a violation of section
12 758 of title 18, United States Code, (relating to
13 high speed flight from an immigration check-
14 point) is inadmissible.

15 “(P) FAILURE TO REGISTER AS A SEX OF-
16 FENDER.—Any alien who has been convicted
17 under section 2250 of title 18, United States
18 Code, (relating to failure to register as a sex of-
19 fender) is inadmissible.

20 “(Q) CRIMES OF DOMESTIC VIOLENCE,
21 STALKING, OR VIOLATION OF PROTECTION OR-
22 DERS; CRIMES AGAINST CHILDREN.—

23 [“(i) DOMESTIC VIOLENCE, STALK-
24 ING, AND CHILD ABUSE.—Any alien who
25 [at any time is/has been] convicted of a

1 crime of domestic violence (as such term is
2 defined in section 40002(a) of the Violent
3 Crime Control and Law Enforcement Act
4 of 1994 (42 U.S.C. 13925(a)), a crime of
5 stalking, or a crime of child abuse, child
6 neglect, or child abandonment is inadmis-
7 sible.】

8 “(ii) VIOLATORS OF PROTECTION OR-
9 DERS.—

10 “(I) IN GENERAL.—Any alien
11 who 【at any time is/has been】 en-
12 joined under a protection order issued
13 by a court and whom the court deter-
14 mines has engaged in conduct that
15 violates the portion of a protection
16 order that involves protection against
17 credible threats of violence, repeated
18 harassment, or bodily injury to the
19 person or persons for whom the pro-
20 tection order was issued is inadmis-
21 sible.

22 “(II) PROTECTIVE ORDER DE-
23 FINED.—In this clause, the term ‘pro-
24 tection order’ means any injunction
25 issued for the purpose of preventing

1 violent or threatening acts of domestic
2 violence, including temporary or final
3 orders issued by civil or criminal
4 courts (other than support or child
5 custody orders or provisions) whether
6 obtained by filing an independent ac-
7 tion or as an independent order in an-
8 other proceeding.”; and

9 (2) in subsection (h)—

10 **[(A) in the matter preceding paragraph**
11 **(1), as amended by this Act, by further amend-**
12 **ed by striking “, and (K)”, and inserting “(K),**
13 **and (M)”;**]
14

15 (B) in the matter following paragraph
(2)—

16 (i) by striking “torture.” and insert-
17 ing “torture, or has been convicted of an
18 aggravated felony.”; and

19 (ii) by striking “if either since the
20 date of such admission the alien has been
21 convicted of an aggravated felony or the
22 alien” and inserting “if since the date of
23 such admission the alien”.

1 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
2 237(a)(3)(B) of the Immigration and Nationality Act (8
3 U.S.C. 1227(a)(3)(B)) is amended—

4 (1) in clause (i), by striking the comma at the
5 end and inserting a semicolon;

6 (2) in clause (ii), by striking “, or” at the end
7 and inserting a semicolon;

8 (3) in clause (iii), by striking the comma at the
9 end and inserting “; or”; and

10 (4) by inserting after clause (iii) the following:

11 “(iv) of a violation of, or an attempt
12 or a conspiracy to violate, subsection (a) or
13 (b) of section 1425 of title 18 (relating to
14 the procurement of citizenship or natu-
15 ralization unlawfully),”.

16 (c) DEPORTABILITY; CRIMINAL OFFENSES.—Para-
17 graph (2) of section 237(a) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1227(a)(2)), as amended by sec-
19 tions 506 and 507, is further amended by adding at the
20 end the following:

21 “(I) IDENTIFICATION FRAUD.—Any alien
22 who is convicted of a violation of (or a con-
23 spiracy or attempt to violate) an offense de-
24 scribed in section 208 of the Social Security Act
25 (42 U.S.C. 408) (relating to social security ac-

1 count numbers or social security cards) or sec-
2 tion 1028 of title 18, United States Code, (re-
3 lating to fraud and related activity in connec-
4 tion with identification), is deportable.”.

5 (d) APPLICABILITY.—The amendments made by this
6 section shall apply to—

7 (1) any act that occurred before, on, or after
8 the date of the enactment of this Act;

9 (2) all aliens who are required to establish ad-
10 missibility on or after such date of enactment; and

11 (3) all removal, deportation, or exclusion pro-
12 ceedings that are filed, pending, or reopened, on or
13 after such date of enactment.

14 **SEC. 509. ENHANCED CRIMINAL PENALTIES FOR HIGH**
15 **SPEED FLIGHT.**

16 (a) IN GENERAL.—Section 758 of title 18, United
17 States Code, is amended to read as follows:

18 **“§ 758. Unlawful flight from immigration or customs**
19 **controls**

20 **“(a) EVADING A CHECKPOINT.—**Any person who,
21 while operating a motor vehicle or vessel, knowingly flees
22 or evades a checkpoint operated by the Department of
23 Homeland Security or any other Federal law enforcement
24 agency, and then knowingly or recklessly disregards or dis-
25 obeys the lawful command of any law enforcement agent,

1 shall be fined under this title, imprisoned not more than
2 5 years, or both.

3 “(b) FAILURE TO STOP.—Any person who, while op-
4 erating a motor vehicle, aircraft, or vessel, knowingly or
5 recklessly disregards or disobeys the lawful command of
6 an officer of the Department of Homeland Security en-
7 gaged in the enforcement of the immigration, customs, or
8 maritime laws, or the lawful command of any law enforce-
9 ment agent assisting such officer, shall be fined under this
10 title, imprisoned not more than 2 years, or both.

11 “(c) ALTERNATIVE PENALTIES.—Notwithstanding
12 the penalties provided in subsection (a) or (b), any person
13 who violates such subsection shall—

14 “(1) be fined under this title, imprisoned not
15 more than 10 years, or both, if the violation involved
16 the operation of a motor vehicle, aircraft, or vessel—

17 “(A) in excess of the applicable or posted
18 speed limit,

19 “(B) in excess of the rated capacity of the
20 motor vehicle, aircraft, or vessel, or

21 “(C) in an otherwise dangerous or reckless
22 manner;

23 “(2) be fined under this title, imprisoned not
24 more than 20 years, or both, if the violation created

1 a substantial and foreseeable risk of serious bodily
2 injury or death to any person;

3 “(3) be fined under this title, imprisoned not
4 more than 30 years, or both, if the violation caused
5 serious bodily injury to any person; or

6 “(4) be fined under this title, imprisoned for
7 any term of years or life, or both, if the violation re-
8 sulted in the death of any person.

9 “(d) ATTEMPT AND CONSPIRACY.—Any person who
10 attempts or conspires to commit any offense under this
11 section shall be punished in the same manner as a person
12 who completes the offense.

13 “(e) FORFEITURE.—Any property, real or personal,
14 constituting or traceable to the gross proceeds of the of-
15 fense and any property, real or personal, used or intended
16 to be used to commit or facilitate the commission of the
17 offense shall be subject to forfeiture.

18 “(f) FORFEITURE PROCEDURES.—Seizures and for-
19 feitures under this section shall be governed by the provi-
20 sions of chapter 46 of this title, relating to civil forfeitures,
21 including section 981(d), except that such duties as are
22 imposed upon the Secretary of the Treasury under the
23 customs laws described in that section shall be performed
24 by such officers, agents, and other persons as may be des-
25 ignated for that purpose by the Secretary of Homeland

1 Security or the Attorney General. Nothing in this section
2 shall limit the authority of the Secretary **【of the Treasury**
3 **or Homeland Security?】** to seize and forfeit motor vehi-
4 cles, aircraft, or vessels under the Customs laws or any
5 other laws of the United States.

6 “(g) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘checkpoint’ includes any customs
8 or immigration inspection at a port of entry;

9 “(2) the term ‘law enforcement agent’ means—

10 “(A) any Federal, State, local or tribal of-
11 ficial authorized to enforce criminal law; and

12 “(B) when conveying a command described
13 in subsection (b), an air traffic controller;

14 “(3) the term ‘lawful command’ includes a com-
15 mand to stop, decrease speed, alter course, or land,
16 whether communicated orally, visually, by means of
17 lights or sirens, or by radio, telephone, or other wire
18 communication;

19 “(4) the term ‘motor vehicle’ means any motor-
20 ized or self-propelled means of terrestrial transpor-
21 tation; and

22 “(5) the term ‘serious bodily injury’ has the
23 meaning given in section 2119(2).”.

24 (b) CONSTRUCTION.—The amendments made by sub-
25 section (a) shall not be construed to create eligibility for

1 relief from removal under [former section 212(c) of the
2 Immigration and Nationality Act (8 U.S.C. 1182(c))] if
3 such eligibility did not exist before the date on which the
4 amendments became effective.

5 **SEC. 510. PROHIBITION ON ASYLUM AND CANCELLATION**
6 **OF REMOVAL FOR TERRORISTS.**

7 (a) ASYLUM.—Subparagraph (A) of section
8 208(b)(2) of the Immigration and Nationality Act (8
9 U.S.C. 1158(b)(2)(A)), as amended by section 506, is fur-
10 ther amended—

11 (1) by inserting “or the Secretary of Homeland
12 Security” after “if the Attorney General”; and

13 (2) by striking clause (v), and inserting:

14 “(v) the alien is described in section
15 212(a)(3)(B)(i) or section 212(a)(3)(F),
16 unless, in the case of an alien described in
17 subclause (IX) of section 212(a)(3)(B)(i),
18 the Secretary of Homeland Security or the
19 Attorney General determines, in his or her
20 sole and unreviewable discretion, that there
21 are not reasonable grounds for regarding
22 the alien as a danger to the security of the
23 United States;”.

1 (b) CANCELLATION OF REMOVAL.—Paragraph (4) of
2 section 240A(c) of the Immigration and Nationality Act
3 (8 U.S.C. 1229b(c)(4)) is amended—

4 (1) by striking “inadmissible under” and insert-
5 ing “described in”; and

6 (2) by striking “deportable under” and insert-
7 ing “described in”.

8 (c) RESTRICTION ON REMOVAL.—

9 (1) IN GENERAL.—Subparagraph (A) of section
10 241(b)(3) of the Immigration and Nationality Act (8
11 U.S.C. 1231(b)(3)(A)) is amended—

12 [(A) by inserting “or the Secretary of
13 Homeland Security” after “Attorney General”
14 both places that term appears;]

15 (B) by striking “Notwithstanding” and in-
16 serting the following:

17 “(i) IN GENERAL.—Notwithstanding”;

18 and

19 (C) by adding at the end the following:

20 “(ii) BURDEN OF PROOF.—The alien
21 has the burden of proof to establish that
22 the alien’s life or freedom would be threat-
23 ened in such country, and that race, reli-
24 gion, nationality, membership in a par-
25 ticular social group, or political opinion

1 would be at least 1 central reason for such
2 threat.”.

3 (2) EXCEPTION.—Subparagraph (B) of section
4 241(b)(3) of the Immigration and Nationality Act (8
5 U.S.C. 1231(b)(3)(B)) is amended—

6 (A) by inserting “or the Secretary of
7 Homeland Security” after “Attorney General”
8 both places that term appears;

9 (B) in clause (iii), striking “or” at the end;

10 (C) in clause (iv), striking the period at
11 the end and inserting “; or”;

12 (D) inserting after clause (iv) the fol-
13 lowing:

14 “(v) the alien is described in section
15 212(a)(3)(B)(i) or section 212(a)(3)(F),
16 unless, in the case of an alien described in
17 subclause (IX) of section 212(a)(3)(B)(i),
18 the Secretary of Homeland Security or the
19 Attorney General determines, in his or her
20 sole and unreviewable discretion, that there
21 are not reasonable grounds for regarding
22 the alien as a danger to the security of the
23 United States;

24 “(vi) the alien is convicted of an ag-
25 gravated felony.”; and

1 (E) in the undesignated matter at the end
2 of the subparagraph (C), by striking “For pur-
3 poses of clause (iv), an alien who is described
4 in section 237(a)(4)(B) shall be considered to
5 be an alien with respect to whom there are rea-
6 sonable grounds for regarding as a danger to
7 the security of the United States.”.

8 (3) SUSTAINING BURDEN OF PROOF; CREDI-
9 BILITY DETERMINATIONS.—Subparagraph (C) of
10 section 241(b)(3) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1231(b)(3)(C)) is amended by
12 striking “In determining whether an alien has dem-
13 onstrated that the alien’s life or freedom would be
14 threatened for a reason described in subparagraph
15 (A),” and inserting “For purposes of this para-
16 graph,”.

17 (4) EFFECTIVE DATE AND APPLICATION.—The
18 amendments made in paragraphs (1) and (2) shall
19 take effect as if enacted on May 11, 2005, and shall
20 apply to applications for withholding of removal
21 made on or after such date.

22 **SEC. 511. AGGRAVATED FELONIES.**

23 (a) DEFINITION OF AGGRAVATED FELONY.—Para-
24 graph (43) of section 101(a) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1101(a)(43)), as amended by sec-
2 tion 507, is further amended—

3 (1) by striking “The term ‘aggravated felony’
4 means—”and inserting “Notwithstanding any other
5 provision of law, the term ‘aggravated felony’ applies
6 to an offense described in this paragraph, whether in
7 violation of Federal or State law, or in violation of
8 the law of a foreign country for which the term of
9 imprisonment was completed within the previous 15
10 years, even if the length of the term of imprisonment
11 for the offense is based on recidivist or other en-
12 hancements, and regardless of whether the convic-
13 tion was entered before, on, or after September 30,
14 1996, and means—”;

15 (2) in subparagraph (A), by striking “minor;”
16 and inserting “minor, whether or not the minority of
17 the victim is established by evidence contained in the
18 record of conviction or by evidence extrinsic to the
19 record of conviction;”;

20 (3) in subparagraph (N), by striking “para-
21 graph (1)(A) or (2) of”;

22 (4) in subparagraph (O), by striking “section
23 275(a) or 276 committed by an alien who was pre-
24 viously deported on the basis of a conviction for an
25 offense described in another subparagraph of this

1 paragraph;” and inserting “section 275 or 276 for
2 which the term of imprisonment is at least 1 year;”;

3 (5) in subparagraph (U), by striking “an at-
4 tempt or conspiracy to commit an offense described
5 in this paragraph” and inserting “attempting or
6 conspiring to commit an offense described in this
7 paragraph, or aiding, abetting, counseling, pro-
8 curing, commanding, inducing, or soliciting the com-
9 mission of such an offense”; and

10 (6) by striking the undesignated matter fol-
11 lowing subparagraph (U).

12 (b) DEFINITION OF CONVICTION.—Paragraph (48)
13 of section 101(a) of the Immigration and Nationality Act
14 (8 U.S.C. 1101(a)(48)) is amended by adding at the end
15 the following:

16 “(C)(i) Any reversal, vacatur, expungement, or
17 modification of a conviction, sentence, or conviction
18 record that was granted to ameliorate the con-
19 sequences of the conviction, sentence, or conviction
20 record, or was granted for rehabilitative purposes, or
21 for failure to advise the alien of the immigration
22 consequences of a guilty plea or a determination of
23 guilt, shall have no effect on the immigration con-
24 sequences resulting from the original conviction.

1 “(ii) The alien shall have the burden of dem-
2 onstrating that any reversal, vacatur, expungement,
3 or modification was not granted to ameliorate the
4 consequences of the conviction, sentence, or convic-
5 tion record, for rehabilitative purposes, or for failure
6 to advise the alien of the immigration consequences
7 of a guilty plea or a determination of guilt.”.

8 (c) EFFECTIVE DATE AND APPLICATION.—The
9 amendments made by this section shall—

10 (1) take effect on the date of the enactment of
11 this Act; and

12 (2) apply to any act that occurred before, on,
13 or after such date of enactment.

14 **SEC. 512. SANCTIONS FOR COUNTRIES THAT DELAY OR**
15 **PREVENT REPATRIATION OF THEIR NATION-**
16 **ALS.**

17 Subsection (d) of section 243 of the Immigration and
18 Nationality Act (8 U.S.C. 1253(d)) is amended to read
19 as follows:

20 “(d) DISCONTINUING GRANTING VISAS TO NATION-
21 ALS OF COUNTRIES THAT DENY OR DELAY ACCEPTING
22 ALIENS.—Notwithstanding section 221(c), if the Sec-
23 retary of Homeland Security determines that the govern-
24 ment of a foreign country denies or unreasonably delays
25 accepting aliens who are citizens, subjects, nationals, or

1 residents of that country after the Secretary asks whether
2 the government will accept an alien under this section, the
3 Secretary determines that the alien is inadmissible under
4 section 212 or removable under section 237, or the Sec-
5 retary has ordered the alien removed from the United
6 States—

7 “(1) the Secretary of State, upon notification
8 from the Secretary of Homeland Security of such
9 denial or delay to accept aliens under circumstances
10 described in this section, shall order consular officers
11 in that foreign country to discontinue granting im-
12 migrant visas, nonimmigrant visas, or both, to citi-
13 zens, subjects, nationals, and residents of that coun-
14 try until the Secretary of Homeland Security notifies
15 the Secretary of State that the country has accepted
16 the aliens;

17 “(2) the Secretary of Homeland Security may
18 deny admission to any citizens, subjects, nationals,
19 and residents from that country; and

20 “(3) the Secretary of Homeland Security may
21 impose limitations, conditions, or additional fees on
22 the issuance of visas or travel from that country and
23 any other sanctions authorized by law.”.

1 **SEC. 513. PROHIBITION ON FIREARMS BY CERTAIN ALIENS.**

2 Section 922 of title 18, United States Code, is
3 amended—

4 (1) in subsection (d)(5)—

5 (A) in subparagraph (B), by striking
6 “(y)(2)” and all that follows and inserting “(y),
7 is a foreign national who is in the United
8 States and has not been lawfully admitted for
9 permanent residence”;

10 (2) in subsection (g)(5)—

11 (A) in subparagraph (B), by striking
12 “(y)(2)” and all that follows and inserting “(y),
13 is a foreign national who is in the United
14 States and has not been lawfully admitted for
15 permanent residence”; and

16 (3) in subsection (y)—

17 (A) in the header, by striking “ADMITTED
18 UNDER NONIMMIGRANT VISAS” and inserting
19 “NOT LAWFULLY ADMITTED FOR PERMANENT
20 RESIDENCE”;

21 (B) in paragraph (1), by amending sub-
22 paragraph (B) to read as follows:

23 “(B) the term ‘lawfully admitted for per-
24 manent residence’ has the meaning given the
25 term in section 101(a)(20) of the Immigration
26 and Nationality Act (8 U.S.C. 1101(a)(20)).”;

1 (C) in paragraph (2), in the matter pre-
2 ceding subparagraph (A), by striking “under a
3 nonimmigrant visa” and inserting “but not law-
4 fully admitted for permanent residence”; and

5 (D) in paragraph (3)(A), in the matter
6 preceding clause (i), by striking “admitted to
7 the United States under a nonimmigrant visa”
8 and inserting “lawfully admitted to the United
9 States but not as an alien lawfully admitted for
10 permanent residence”.

11 **SEC. 514. EXPANSION OF CRIMINAL ALIEN REPATRIATION**
12 **PROGRAMS.**

13 (a) EXPANSION OF DEPARTMENT OF HOMELAND SE-
14 CURITY CRIMINAL ALIEN REPATRIATION FLIGHTS.—Not
15 later than 90 days after the date of the enactment of this
16 Act, the Secretary shall increase the number of criminal
17 and illegal alien repatriation flights from the United
18 States conducted by U.S. Customs and Border Protection
19 and U.S. Immigration and Customs Enforcement Air Op-
20 erations by not less than 15 percent more than the number
21 of such flights operated, and authorized to be operated,
22 under existing appropriations and funding on the date of
23 the enactment of this Act.

24 (b) JUSTICE PRISONER AND ALIEN TRANSFER SYS-
25 TEM.—Not later than 90 days after the date of the enact-

1 ment of this Act, the Attorney General shall issue a direc-
2 tive to expand the Justice Prisoner and Alien Transfer
3 System (JPATS) so that such system provides additional
4 services with respect to aliens who are illegally present in
5 the United States. Such expansion **【should】** include—

6 (1) increasing the daily operations of such sys-
7 tem with buses and air hubs in the top 5 geographic
8 regions along the Southern Border;

9 (2) allocating a set number of seats for such
10 aliens for each metropolitan area;

11 (3) allowing a metropolitan area to trade or
12 give some of seats allocated to such area under para-
13 graph (2) for the System for such aliens to other
14 areas in the region of such area based on the trans-
15 portation needs of each area; and

16 (4) requiring an annual report that analyzes the
17 number of seats that each metropolitan area is allo-
18 cated under such System for such aliens and rec-
19 ommends modification to that allocation, if nec-
20 essary.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—In addi-
22 tion to the amounts otherwise authorized to be appro-
23 priated, there is authorized to be appropriated for each
24 of fiscal years 2018 through 2021, such sums as may be
25 necessary to carry out this section.

1 **SEC. 515. STRONG VISA INTEGRITY SECURES AMERICA ACT.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Strong Visa Integrity Secures America Act”.

4 (b) VISA SECURITY.—

5 (1) VISA SECURITY UNITS AT HIGH RISK
6 POSTS.—Paragraph (1) of section 428(e) of the
7 Homeland Security Act of 2002 (6 U.S.C.
8 236(e)(1)) is amended—

9 (A) by striking “The Secretary” and in-
10 serting the following:

11 “(A) AUTHORIZATION.—The Secretary”;
12 and

13 (B) by adding at the end the following:

14 “(B) RISK-BASED ASSIGNMENTS.—

15 “(i) IN GENERAL.—The Secretary
16 shall assign, in a risk-based manner, and
17 based on the criteria described in clause
18 (ii), employees of the Department to not
19 fewer than 30 diplomatic and consular
20 posts at which visas are issued.

21 “(ii) CRITERIA DESCRIBED.—The cri-
22 teria referred to in clause (i) are the fol-
23 lowing:

24 “(I) The number of nationals of
25 a country in which any of the diplo-
26 matic and consular posts referred to

1 in clause (i) are located who were
2 identified in United States Govern-
3 ment databases related to the identi-
4 ties of known or suspected terrorists
5 during the previous year.

6 “(II) The level of cooperation of
7 such country with the counterter-
8 rorism efforts of the United States.

9 “(III) Information analyzing the
10 presence, activity, or movement of ter-
11 rorist organizations (as such term is
12 defined in section 212(a)(3)(B)(vi) of
13 the Immigration and Nationality Act
14 (8 U.S.C. 1182(a)(3)(B)(vi)) within
15 or through such country.

16 “(IV) The number of derogatory
17 security advisory opinions issued by
18 the Visa Security Advisory Opinion
19 Unit pursuant to paragraph (10) re-
20 garding nationals of a country in
21 which any of the diplomatic and con-
22 sular posts referred to in clause (i)
23 are located.

1 “(V) The adequacy of the border
2 and immigration control of such coun-
3 try.

4 “(VI) Any other criteria the Sec-
5 retary determines appropriate.

6 “(iii) RULE OF CONSTRUCTION.—The
7 assignment of employees of the Depart-
8 ment pursuant to this subparagraph is
9 solely the authority of the Secretary and
10 may not be altered or rejected by the Sec-
11 retary of State.”.

12 (2) COUNTERTERRORISM VETTING AND
13 SCREENING.—Paragraph (2) of section 428(e) of the
14 Homeland Security Act of 2002 (6 U.S.C.
15 236(e)(2)) is amended—

16 (A) by redesignating subparagraph (C) as
17 subparagraph (D); and

18 (B) by inserting after subparagraph (B)
19 the following:

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

1 (3) TRAINING AND HIRING.—Subparagraph (A)
2 of section 428(e)(6) of the Homeland Security Act
3 of 2002 (6 U.S.C. 236(e)(6)(A)) is amended—

4 (A) by striking “The Secretary shall en-
5 sure, to the extent possible, that any employ-
6 ees” and inserting “The Secretary, acting
7 through the Commissioner of U.S. Customs and
8 Border Protection and the Director of U.S. Im-
9 migration and Customs Enforcement, shall pro-
10 vide training to any employees”; and

11 (B) by striking “shall be provided the nec-
12 essary training”.

13 (4) PRE-ADJUDICATED VISA SECURITY ASSIST-
14 ANCE AND VISA SECURITY ADVISORY OPINION
15 UNIT.—Subsection (e) of section 428 of the Home-
16 land Security Act of 2002 (6 U.S.C. 236(e)) is
17 amended by adding at the end the following:

18 “(9) REMOTE PRE-ADJUDICATED VISA SECU-
19 RITY ASSISTANCE.—At the visa-issuing posts at
20 which employees of the Department are not assigned
21 pursuant to paragraph (1), the Secretary shall, to
22 the greatest extent possible, in a risk-based manner,
23 and in consultation, where appropriate, with the Sec-
24 retary of State, assign employees of the Department

1 to remotely perform the functions required under
2 paragraph (2) for such posts.

3 “(10) VISA SECURITY ADVISORY OPINION
4 UNIT.—The Secretary shall establish within U.S.
5 Immigration and Customs Enforcement a Visa Secu-
6 rity Advisory Opinion Unit to respond to requests
7 from the Secretary of State to conduct a visa secu-
8 rity review using information maintained by the De-
9 partment on visa applicants, including terrorism as-
10 sociation, criminal history, and other relevant fac-
11 tors, as determined by the Secretary.”.

12 (c) ELECTRONIC PASSPORT SCREENING AND BIO-
13 METRIC MATCHING.—

14 (1) IN GENERAL.—Subtitle C of title IV of the
15 Homeland Security Act of 2002 (6 U.S.C. 231 et
16 seq.), as amended by section 117, is further amend-
17 ed by adding at the end the following:

18 **“SEC. 435. ELECTRONIC PASSPORT SCREENING AND BIO-**
19 **METRIC MATCHING.**

20 “(a) IN GENERAL.—Not later than one year after the
21 date of the enactment of the Building America’s Trust
22 through Border and National Security Act of 2017, the
23 Commissioner of U.S. Customs and Border Protection
24 shall—

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

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

8 “(b) APPLICABILITY.—

9 “(1) ELECTRONIC PASSPORT SCREENING.—

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

17 “(2) FACIAL RECOGNITION MATCHING.—Para-
18 graph (2) of subsection (a) shall apply to individuals
19 who are nationals of a program country pursuant to
20 section 217 of the Immigration and Nationality Act
21 (8 U.S.C. 1187).

22 **“SEC. 436. CONTINUOUS SCREENING BY U.S. CUSTOMS AND**
23 **BORDER PROTECTION.**

24 “The Commissioner of U.S. Customs and Border
25 Protection shall, in a risk-based manner, continuously

1 screen individuals issued any visa, and individuals who are
2 nationals of a program country pursuant to section 217
3 of the Immigration and Nationality Act (8 U.S.C. 1187),
4 who are present, or will soon be arriving, in the United
5 States, against the appropriate criminal, national security,
6 and terrorism databases maintained by the Federal Gov-
7 ernment.”.

8 (2) TABLE OF CONTENTS AMENDMENT.—The
9 table of contents in section 1(b) of the Homeland
10 Security Act of 2002 (Public Law 107–296), as
11 amended by section 117, is further amended by in-
12 serting after the item relating to section 434 the fol-
13 lowing:

“Sec. 435. Electronic passport screening and biometric matching.”

“Sec. 436. Continuous screening by U.S. Customs and Border Protection.”.

14 (d) REPORTING OF VISA OVERSTAYS.—Section 2 of
15 Public Law 105–173 (8 U.S.C. 1376) is amended—

16 (1) in subsection (a)—

17 (A) by striking “Attorney General” and in-
18 serting “Secretary of Homeland Security”; and

19 (B) by inserting before the period at the
20 end the following: “, and any additional infor-
21 mation that the Secretary determines necessary
22 for purposes of the report under subsection
23 (b)”;

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

3 “(b) ANNUAL REPORT.—Not later than June 30,
4 2017, and not later than June 30 of each year thereafter,
5 the Secretary of Homeland Security shall submit to the
6 Committee on Homeland Security and Governmental Af-
7 fairs and the Committee on the Judiciary of the Senate
8 and the Committee on Homeland Security and the Com-
9 mittee on the Judiciary of the House of Representatives
10 a report that provides, for the preceding fiscal year, nu-
11 merical estimates of—

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

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

19 “(B) the number of such aliens within each
20 of the classes of nonimmigrant aliens, as well as
21 the number of such aliens within each of the
22 subclasses of such classes of nonimmigrant
23 aliens, as applicable;

24 “(2) for each country, the percentage of the
25 total number of aliens from the country who were

1 present in the United States and were admitted to
2 the United States as nonimmigrants who are de-
3 scribed in subsection (a);

4 “(3) the number of aliens described in sub-
5 section (a) who arrived by land at a port of entry
6 into the United States; and

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

12 (e) STUDENT AND EXCHANGE VISITOR INFORMA-
13 TION SYSTEM VERIFICATION.—Not later than 90 days
14 after the date of the enactment of this Act, the Secretary
15 shall ensure that the information collected under the pro-
16 gram established under section 641 of the Illegal Immigra-
17 tion Reform and Immigrant Responsibility Act of 1996
18 (8 U.S.C. 1372) is available to officers of U.S. Customs
19 and Border Protection conducting primary inspections of
20 aliens seeking admission to the United States at each port
21 of entry of the United States.

22 **SEC. 516. CANCELLATION OF ADDITIONAL VISAS.**

23 (a) IN GENERAL.—Subsection (g) of section 222 of
24 the Immigration and Nationality Act (8 U.S.C. 1202(g))
25 is amended—

1 (1) in paragraph (1)—

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

5 (B) by inserting “and any other non-
6 immigrant visa issued by the United States that
7 is in the possession of the alien” after “such
8 visa”; and

9 (2) in paragraph (2)(A), by striking “(other
10 than the visa described in paragraph (1)) issued in
11 a consular office located in the country of the alien’s
12 nationality” and inserting “(other than a visa de-
13 scribed in paragraph (1)) issued in a consular office
14 located in the country of the alien’s nationality or
15 foreign residence”.

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

20 **SEC. 517. JUDICIAL REVIEW OF VISA REVOCATION.**

21 Subsection (i) of section 221 of the Immigration and
22 Nationality Act (8 U.S.C. 1201(i)) is amended—

23 (1) by inserting “(1)” after “(i)”;

24 (2) by striking the last sentence; and

25 (3) by adding at the end the following:

1 “(2) Notwithstanding any other provision of law, in-
2 cluding section 2241 of title 28, United States Code, or
3 any other habeas corpus provision, and sections 1361 and
4 1651 of such title, a revocation under this subsection may
5 not be reviewed by any court, and no court shall have ju-
6 risdiction to hear any claim arising from, or any challenge
7 to, such a revocation.

8 “(3) A revocation under this subsection of a visa or
9 other documentation from an alien shall take effect imme-
10 diately and shall automatically cancel any other valid visa
11 that is in the alien’s possession.”.

12 **SEC. 518. SECURE VISAS ACT.**

13 (a) SHORT TITLE.—This section may be cited as the
14 “Secure Visas Act”.

15 (b) AUTHORITY OF THE SECRETARY OF HOMELAND
16 SECURITY AND THE SECRETARY OF STATE.—Section 428
17 of the Homeland Security Act of 2002 (6 U.S.C. 236) is
18 amended by striking subsections (b) and (c) and inserting
19 the following:

20 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
21 SECURITY.—

22 “(1) IN GENERAL.—Notwithstanding section
23 104(a) of the Immigration and Nationality Act (8
24 U.S.C. 1104(a)) or any other provision of law, and
25 except for the authority of the Secretary of State

1 under subparagraphs (A) and (G) of section
2 101(a)(15) of the Immigration and Nationality Act
3 (8 U.S.C. 1101(a)(15)), the Secretary—

4 “(A) shall have exclusive authority to issue
5 regulations, establish policy, and administer and
6 enforce the provisions of the Immigration and
7 Nationality Act (8 U.S.C. 1101 et seq.) and all
8 other immigration or nationality laws relating
9 to the functions of consular officers of the
10 United States in connection with the granting
11 and refusal of a visa; and

12 “(B) may refuse or revoke any visa to any
13 alien or class of aliens if the Secretary, or des-
14 ignee, determines that such refusal or revoca-
15 tion is necessary or advisable in the security in-
16 terests of the United States.

17 “(2) EFFECT OF REVOCATION.—The revocation
18 of any visa under paragraph (1)(B)—

19 “(A) shall take effect immediately; and

20 “(B) shall automatically cancel any other
21 valid visa that is in the alien’s possession.

22 “(3) JUDICIAL REVIEW.—Notwithstanding any
23 other provision of law, including section 2241 of title
24 28, United States Code, any other habeas corpus
25 provision, and sections 1361 and 1651 of such title,

1 no United States court has jurisdiction to review a
2 decision by the Secretary of Homeland Security to
3 refuse or revoke a visa.

4 “(c) EFFECT OF VISA APPROVAL BY THE SEC-
5 RETARY OF STATE.—

6 “(1) IN GENERAL.—The Secretary of State may
7 direct a consular officer to refuse or revoke a visa
8 to an alien if the Secretary determines that such re-
9 fusal or revocation is necessary or advisable in the
10 foreign policy interests of the United States.

11 “(2) LIMITATION.—No decision by the Sec-
12 retary of State to approve a visa may override a de-
13 cision by the Secretary under subsection (b).”.

14 (c) VISA REVOCATION.—Section 428 of the Home-
15 land Security Act (6 U.S.C. 236) is amended by adding
16 at the end the following:

17 “(j) VISA REVOCATION INFORMATION.—If the Sec-
18 retary or the Secretary of State revokes a visa—

19 “(1) the relevant consular, law enforcement,
20 and terrorist screening databases shall be imme-
21 diately updated on the date of the revocation; and

22 “(2) look-out notices shall be posted to all De-
23 partment port inspectors and Department of State
24 consular officers.”.

1 **SEC. 519. REQUIREMENT TO COMPLETE BACKGROUND**
2 **CHECKS.**

3 (a) IN GENERAL.—Section 103 of Immigration and
4 Nationality Act (8 U.S.C. 1103) is amended by adding
5 at the end the following:

6 “(h) COMPLETION OF SECURITY CHECKS.—Notwith-
7 standing any other provision of law, including section 309
8 of the Enhanced Border Security and Visa Entry Reform
9 Act of 2002 (8 U.S.C. 1738), until all background and
10 security checks that the Secretary of Homeland Security
11 may, [in the Secretary’s discretion,] require for an alien
12 have been completed and updated to the satisfaction of
13 the Secretary, [neither the Secretary of Homeland Secu-
14 rity, the Attorney General, nor any court may/no official
15 of the Government of the United States or any court
16 may]—

17 “(1) grant or order the grant of adjustment of
18 status for such alien to that of an alien lawfully ad-
19 mitted for permanent residence;

20 “(2) grant such alien United States citizenship
21 or any other status, relief, protection from removal,
22 employment authorization, or any other benefit
23 under the immigration laws; or

24 “(3) issue such alien any documentation evi-
25 dencing or related to any such grant.”.

1 (b) EFFECTIVE DATE AND APPLICATION.—The
2 amendment made by the section shall take effect on the
3 date of the enactment of this Act and shall apply to any
4 application for any benefit or relief or any other case or
5 matter under the immigration laws pending on or filed
6 after such date of enactment.

7 **SEC. 520. ACCESS TO THE NATIONAL CRIME INFORMATION**
8 **CENTER INTERSTATE IDENTIFICATION**
9 **INDEX.**

10 (a) CRIMINAL JUSTICE ACTIVITIES.—Section 104 of
11 the Immigration and Nationality Act (8 U.S.C. 1104) is
12 amended by adding at the end the following:

13 “(f) CRIMINAL JUSTICE ACTIVITIES.—Notwith-
14 standing any other provision of law, any Department of
15 State personnel with authority to grant or refuse visas or
16 passports may carry out activities that have a criminal
17 justice purpose.”.

18 (b) LIAISON WITH INTERNAL SECURITY OFFICERS;
19 DATA EXCHANGE.—Section 105 of the Immigration and
20 Nationality Act (8 U.S.C. 1105) is amended by striking
21 subsections (b) and (c) and inserting the following:

22 “(b) ACCESS TO NCIC-III.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of law, the Attorney General and the Di-
25 rector of the Federal Bureau of Investigation shall

1 provide to the Department of Homeland Security
2 and the Department of State access to the criminal
3 history record information contained in the National
4 Crime Information Center's Interstate Identification
5 Index (NCIC-III) and the Wanted Persons File and
6 to any other files maintained by the National Crime
7 Information Center for the purpose of determining
8 whether an applicant or petitioner for a visa, admis-
9 sion, or any benefit, relief, or status under the immi-
10 gration laws, or any beneficiary of an application or
11 petition under the immigration laws, has a criminal
12 history record indexed in the file.

13 “(2) AUTHORIZED ACTIVITIES.—

14 “(A) IN GENERAL.—The Secretary of
15 Homeland Security and the Secretary of
16 State—

17 “(i) shall have direct access, without
18 any fee or charge, to the information de-
19 scribed in paragraph (1) to conduct name-
20 based searches, file number searches, and
21 any other searches that any criminal jus-
22 tice or other law enforcement officials are
23 entitled to conduct; and

1 “(ii) may contribute to the records
2 maintained by the National Crime Infor-
3 mation Center.

4 “(B) SECRETARY OF HOMELAND SECUR-
5 RITY.—The Secretary of Homeland Security
6 shall receive, on request by the Secretary of
7 Homeland Security, access to the information
8 described in paragraph (1) by means of extracts
9 of the records for placement in the appropriate
10 database without any fee or charge.

11 “(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT
12 PURPOSES.—Notwithstanding any other provision of law,
13 adjudication of eligibility for benefits under the immigra-
14 tion laws and other purposes relating to citizenship and
15 immigration services, shall be considered to be criminal
16 justice or law enforcement purposes with respect to access
17 to or use of any information maintained by the National
18 Crime Information Center or other criminal history infor-
19 mation or records.”.

20 **SEC. 521. APPROPRIATE REMEDIES FOR IMMIGRATION**
21 **LITIGATION.**

22 (a) LIMITATION ON CLASS ACTIONS.—No court may
23 certify a class under rule 23 of the Federal Rules of Civil
24 Procedure in any civil action that—

1 (1) is filed after the date of enactment of this
2 Act; and

3 (2) pertains to the administration or enforce-
4 ment of the immigration laws.

5 (b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
6 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

7 (1) IN GENERAL.—If a court determines that
8 prospective relief should be ordered against the Gov-
9 ernment in any civil action pertaining to the admin-
10 istration or enforcement of the immigration laws,
11 the court shall—

12 (A) limit the relief to the minimum nec-
13 essary to correct the violation of law;

14 (B) adopt the least intrusive means to cor-
15 rect the violation of law;

16 (C) minimize, to the greatest extent prac-
17 ticable, the adverse impact on national security,
18 border security, immigration administration and
19 enforcement, and public safety; and

20 (D) provide for the expiration of the relief
21 on a specific date, which is not later than the
22 earliest date necessary for the Government to
23 remedy the violation.

24 (2) WRITTEN EXPLANATION.—The require-
25 ments described in paragraph (1) shall be discussed

1 and explained in writing in the order granting pro-
2 spective relief and shall be sufficiently detailed to
3 allow review by another court.

4 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE
5 RELIEF.—Preliminary injunctive relief granted
6 under paragraph (1) shall automatically expire on
7 the date that is 90 days after the date on which
8 such relief is entered, unless the court—

9 (A) finds that such relief meets the re-
10 quirements described in subparagraphs (A)
11 through (D) of paragraph (1) for the entry of
12 permanent prospective relief; and

13 (B) orders the preliminary relief to become
14 a final order granting prospective relief prior to
15 the expiration of the 90-day period.

16 (c) PROCEDURE FOR MOTION AFFECTING ORDER
17 GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERN-
18 MENT.—

19 (1) IN GENERAL.—A court shall promptly rule
20 on a motion made by the United States Government
21 to vacate, modify, dissolve, or otherwise terminate
22 an order granting prospective relief in any civil ac-
23 tion pertaining to the administration or enforcement
24 of the immigration laws.

25 (2) AUTOMATIC STAYS.—

1 (A) IN GENERAL.—A motion to vacate,
2 modify, dissolve, or otherwise terminate an
3 order granting prospective relief made by the
4 United States Government in any civil action
5 pertaining to the administration or enforcement
6 of the immigration laws shall automatically, and
7 without further order of the court, stay the
8 order granting prospective relief on the date
9 that is 15 days after the date on which such
10 motion is filed unless the court previously has
11 granted or denied the Government’s motion.

12 (B) DURATION OF AUTOMATIC STAY.—An
13 automatic stay under subparagraph (A) shall
14 continue until the court enters an order grant-
15 ing or denying the Government’s motion.

16 (C) POSTPONEMENT.—The court, for good
17 cause, may postpone an automatic stay under
18 subparagraph (A) for not longer than 15 days.

19 (D) ORDERS BLOCKING AUTOMATIC
20 STAYS.—Any order staying, suspending, delay-
21 ing, or otherwise barring the effective date of
22 the automatic stay described in subparagraph
23 (A), other than an order to postpone the effec-
24 tive date of the automatic stay for not longer

1 than 15 days under subparagraph (C), shall
2 be—

3 (i) treated as an order refusing to va-
4 cate, modify, dissolve, or otherwise termi-
5 nate an injunction; and

6 (ii) immediately appealable under sec-
7 tion 1292(a)(1) of title 28, United States
8 Code.

9 (d) SETTLEMENTS.—

10 (1) CONSENT DECREES.—In any civil action
11 pertaining to the administration or enforcement of
12 the immigration laws, the court may not enter, ap-
13 prove, or continue a consent decree that does not
14 comply with the requirements of subsection (b)(1).

15 (2) PRIVATE SETTLEMENT AGREEMENTS.—
16 Nothing in this subsection shall preclude parties
17 from entering into a private settlement agreement
18 that does not comply with subsection (b)(1).

19 (e) EXPEDITED PROCEEDINGS.—It shall be the duty
20 of every court to advance on the docket and to expedite
21 the disposition of any civil action or motion considered
22 under this section.

23 (f) CONSENT DECREE DEFINED.—In this section,
24 the term “consent decree”—

1 (1) means any relief entered by the court that
2 is based in whole or in part on the consent or acqui-
3 escence of the parties; and

4 (2) does not include private settlements.

5 **TITLE VI—PROHIBITION ON TER-**
6 **RORISTS OBTAINING LAWFUL**
7 **STATUS IN THE UNITED**
8 **STATES**

9 **Subtitle A—Prohibition on Adjust-**
10 **ment to Lawful Permanent Resi-**
11 **dent Status**

12 **SEC. 601. PROHIBITION ON TERRORISTS AND ALIENS WHO**
13 **POSE A THREAT TO NATIONAL SECURITY OR**
14 **PUBLIC SAFETY ON ADJUSTMENT TO LAW-**
15 **FUL PERMANENT RESIDENT STATUS.**

16 (a) APPLICATION FOR ADJUSTMENT FROM OUTSIDE
17 THE UNITED STATES.—Section 245 of the Immigration
18 and Nationality Act (8 U.S.C. 1255) is amended by strik-
19 ing the section heading and subsection (a) and inserting
20 the following:

21 **“SEC. 245. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO**
22 **THAT OF PERSON ADMITTED FOR PERMA-**
23 **NENT RESIDENCE.**

24 “(a) IN GENERAL.—

1 “(1) ELIGIBILITY FOR ADJUSTMENT.—The sta-
2 tus of an alien who was inspected and admitted or
3 paroled into the United States or the status of any
4 other alien having an approved petition for classi-
5 fication as a VAWA self-petitioner may be adjusted
6 by the [Attorney General/Secretary of Homeland
7 Security], in the discretion of the Secretary and
8 under such regulations as the Secretary may pre-
9 scribe, to that of an alien lawfully admitted for per-
10 manent residence if—

11 “(A) the alien makes an application for
12 such adjustment;

13 “(B) the alien is eligible to receive an im-
14 migrant visa and is admissible to the United
15 States for permanent residence; and

16 “(C) an immigrant visa is immediately
17 available to the alien at the time the alien’s ap-
18 plication is filed.”.

19 “(2) APPLICATION FROM OUTSIDE THE UNITED
20 STATES.—Notwithstanding any provision in this sec-
21 tion, the Secretary of Homeland Security, in the
22 Secretary’s sole and unreviewable discretion, may—

23 “(A) prohibit an alien from seeking an ad-
24 justment of status under paragraph (1) while
25 the alien is present in the United States; and

1 “(B) require the alien to apply for status
2 as an alien lawfully admitted for permanent
3 residence through a United States embassy or
4 consulate in the alien’s home country or other
5 foreign country, as designated by the Secretary
6 of State.”.

7 (b) PROHIBITION ON TERRORISTS AND ALIENS WHO
8 POSE A THREAT TO NATIONAL SECURITY OR PUBLIC
9 SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESI-
10 DENT STATUS.—Subsection (c) of section 245 of the Im-
11 migration and Nationality Act (8 U.S.C. 1255(c)) is
12 amended to read as follows: *[Note: This amendment con-*
13 *flicts with the amendment made by section 505(f). If you*
14 *retain both amendments they need to be conformed.]*

15 “(c) ALIENS NOT ELIGIBLE FOR ADJUSTMENT OF
16 STATUS.—Other than an alien having an approved peti-
17 tion for classification as a VAWA self-petitioner, sub-
18 section (a) shall not be applicable to—

19 “(1) an alien crewman;

20 “(2) subject to subsection (k), an alien (other
21 than an immediate relative as defined in section
22 201(b) or a special immigrant described in subpara-
23 graph (H), (I), (J), or (K) of section 101(a)(27))
24 who hereafter continues in or accepts unauthorized
25 employment prior to filing an application for adjust-

1 ment of status or who is in unlawful immigration
2 status on the date of filing the application for ad-
3 justment of status or who has failed (other than
4 through no fault of his or her own or for technical
5 reasons) to maintain continuously a lawful status
6 since entry into the United States;

7 “(3) any alien admitted in transit without visa
8 under section 212(d)(4)(C);

9 “(4) an alien (other than an immediate relative
10 as defined in section 201(b)) who was admitted as
11 a nonimmigrant visitor without a visa under section
12 212(l) or section 217;

13 “(5) an alien who was admitted as a non-
14 immigrant described in section 101(a)(15)(S);

15 “(6) an alien who is inadmissible under section
16 212(a)(3);

17 “(7) an alien who is deportable under section
18 **【237(a)(4)(B)】**;

19 “(8) any alien who seeks adjustment of status
20 to that of an immigrant under section 203(b) and is
21 not in a lawful nonimmigrant status; or

22 “(9) any alien who was employed while the
23 alien was an unauthorized alien, as defined in sec-
24 tion 274A(h)(3), or who has otherwise violated the
25 terms of a nonimmigrant visa.”.

1 **SEC. 602. DATE OF ADMISSION FOR PURPOSES OF ADJUST-**
2 **MENT OF STATUS.**

3 (a) APPLICANTS FOR ADMISSION.—Paragraph (13)
4 of section 101(a) of the Immigration and Nationality Act
5 (8 U.S.C. 1101(a)(13)) is amended by adding at the end
6 the following:

7 “(D) Adjustment of status of the alien to that
8 of an alien lawfully admitted for permanent resi-
9 dence under section 245 or any other provision of
10 law is an admission of the alien, notwithstanding
11 [any previous admission of the alien] under sub-
12 paragraph (A) of this paragraph”.

13 (b) ELIGIBILITY TO BE REMOVED FOR A CRIME OF
14 MORAL TURPITUDE.—Subclause (I) of section
15 237(a)(2)(A)(i) of the Immigration and Nationality Act
16 (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking
17 “date of admission,” inserting “the alien’s most recent
18 date of admission;”.

19 **SEC. 603. EXTENSION OF TIME LIMIT TO PERMIT RESCIS-**
20 **SION OF ADJUSTMENT OF STATUS.**

21 Subsection (a) of section 246 of the Immigration and
22 Nationality Act (8 U.S.C. 1256(a)) is amended—

23 (1) by inserting “(1)” after “(a)”;

24 (2) by striking “within five years” and inserting
25 “within 10 years”;

1 (3) by striking “Attorney General” each place
2 that term appears and inserting “Secretary of
3 Homeland Security”; and

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

5 “(2) In any removal proceeding involving an alien
6 whose status has been rescinded under this subsection, the
7 determination by the Secretary that this person was not
8 eligible for adjustment of status is not subject to review
9 or reconsideration during such proceedings.”.

10 **Subtitle B—Prohibition on Natu-**
11 **ralization and United States**
12 **Citizenship**

13 **SEC. 611. PROHIBITION ON TERRORISTS BECOMING NATU-**
14 **RALIZED UNITED STATES CITIZENS.**

15 Section 316 of the Immigration and Nationality Act
16 (8 U.S.C. 1427) is amended by adding at the end the fol-
17 lowing:

18 “(g) PERSONS ENDANGERING NATIONAL SECU-
19 RITY.—

20 “(1) PROHIBITION ON NATURALIZATION.—No
21 person may be naturalized if the Secretary of Home-
22 land Security makes a determination, in the discre-
23 tion of the Secretary, that the alien has been at any
24 time an alien described in section 212(a)(3) or
25 237(a)(4).

1 “(2) BASIS FOR DETERMINATION; PROHIBITION
2 ON REVIEW.—A determination made under para-
3 graph (1)—

4 “(A) may be based upon any relevant in-
5 formation or evidence, including classified, sen-
6 sitive, or national security information; and

7 “(B) shall be binding upon, and
8 unreviewable by, any court exercising jurisdic-
9 tion, under the immigration laws, over any ap-
10 plication for naturalization, regardless of the
11 applicable standard of review.”.

12 **SEC. 612. TERRORIST BAR TO GOOD MORAL CHARACTER.**

13 (a) DEFINITION OF GOOD MORAL CHARACTER.—

14 (1) EXCLUSION OF TERRORIST ALIENS.—Sub-
15 section (f) of section 101 of the Immigration and
16 Nationality Act (8 U.S.C. 1101(f)), as amended by
17 sections 505 and 507 and subsection (c) of this sec-
18 tion, is further amended—

19 (A) in paragraph (8), by striking “; or”
20 and inserting “, regardless whether the crime
21 was classified as an aggravated felony at the
22 time of conviction, provided that, the Secretary
23 of Homeland Security or Attorney General may,
24 in the unreviewable discretion of the Secretary
25 or the Attorney General, determine that this

1 paragraph shall not apply in the case of a sin-
2 gle aggravated felony conviction (other than
3 murder, manslaughter, homicide, rape, or any
4 sex offense when the victim of such sex offense
5 was a minor) for which completion of the term
6 of imprisonment or the sentence (whichever is
7 later) occurred 10 or more years before the date
8 of application;” and

9 (B) by inserting after paragraph (10), as
10 added by section 505, the following:

11 “(11) one who the Secretary of Homeland Se-
12 curity or the Attorney General determines, in the
13 unreviewable discretion of the Secretary or the At-
14 torney General, to have been at any time an alien
15 described in section 212(a)(3) or 237(a)(4), which
16 determination—

17 “(A) may be based upon any relevant in-
18 formation or evidence, including classified, sen-
19 sitive, or national security information; and

20 “(B) shall be binding upon any court re-
21 gardless of the applicable standard of review.”;
22 and

23 (2) by striking the first sentence of the undesig-
24 nated paragraph at the end and inserting following:

1 “The fact that any person is not within any of the fore-
2 going classes shall not preclude a discretionary finding for
3 other reasons that such a person is or was not of good
4 character. The Secretary of Homeland Security or the At-
5 torney General shall not be limited to the applicant’s con-
6 duct during the period for which good moral character is
7 required, but may take into consideration as a basis for
8 determination the applicant’s conduct and acts at any
9 time.”.

10 (b) AGGRAVATED FELONS.—Subsection (b) of section
11 509 of the Immigration Act of 1990 (Public Law 101–
12 649; 8 U.S.C. 1101 note) is amended by striking “convic-
13 tions” and all that follows through the end and inserting
14 “convictions occurring before, on or after such date.”.

15 (c) TECHNICAL CORRECTION TO THE INTELLIGENCE
16 REFORM AND TERRORISM PREVENTION ACT OF 2004.—
17 Section 5504 of the Intelligence Reform and Terrorism
18 Prevention Act of 2004 (Public Law 108–458; 118 Stat.
19 3741) is amended by striking “Section 101(f)” and all
20 that follows through “end the following:” and inserting
21 “Paragraph (8) of section 101(f) of the Immigration and
22 Nationality Act (8 U.S.C. 1101(f)) is amended by striking
23 ‘subsection (a)(43)).’ and inserting the following: ‘sub-
24 section (a)(43)); or’ ”.

25 (d) EFFECTIVE DATE AND APPLICATION.—

1 (1) SUBSECTIONS (a) AND (b).—The amend-
2 ments made by subsections (a) and (b) shall take ef-
3 fect on the date of the enactment of this Act, shall
4 apply to any act that occurred before, on, or after
5 the date of enactment, and shall apply to any appli-
6 cation for naturalization or any other benefit or re-
7 lief, or any other case or matter under the immigra-
8 tion laws pending on or filed after the date of enact-
9 ment of this Act.

10 (2) SUBSECTION (c).—The amendments made
11 by subsection (c) shall take effect as if included in
12 the enactment of the Intelligence Reform and Ter-
13 rorism Prevention Act of 2004 (Public Law 108–
14 458; 118 Stat. 3638).

15 **SEC. 613. PROHIBITION ON JUDICIAL REVIEW OF NATU-**
16 **RALIZATION FOR ALIENS IN REMOVAL PRO-**
17 **CEEDINGS.**

18 Section 318 of the Immigration and Nationality Act
19 (8 U.S.C. 1429) is amended—

20 (1) by inserting “(a)” after “318.”;

21 (2) by striking “Act;” and all that follows
22 through the end and inserting “Act.”; and

23 (3) by adding at the end the following:

24 “(b)(1) No application for naturalization shall be con-
25 sidered by the Secretary of Homeland Security or any

1 court if there is pending against the applicant any removal
2 proceeding or other proceeding to determine the appli-
3 cant's lawful permanent resident status should be re-
4 scinded, regardless of when such proceeding was com-
5 menced.

6 “(2) The findings of the Attorney General in termi-
7 nating removal proceedings or in cancelling the removal
8 of an alien pursuant to the provisions of this Act, shall
9 not be deemed binding in any way upon the Secretary of
10 Homeland Security with respect to the question of whether
11 such person has established his or her eligibility for natu-
12 ralization as required by this Act.”.

13 **SEC. 614. LIMITATION ON JUDICIAL REVIEW OF DETER-**
14 **MINATIONS ON NATURALIZATION.**

15 (a) LIMITATION ON REVIEW OF DELAYED DETER-
16 MINATIONS.—Subsection (b) of section 336 of the Immi-
17 gration and Nationality Act (8 U.S.C. 1447(b)) is amend-
18 ed to read as follows:

19 “(b) REQUEST FOR HEARING BEFORE DISTRICT
20 COURT.—If no final administrative determination is made
21 on an application for naturalization under section 335
22 prior to the end of the 180-day period beginning on the
23 date on which the Secretary of Homeland Security com-
24 pletes all examinations and interviews conducted under
25 such section [(as such terms are defined by the Secretary

1 in regulation)】, the applicant may apply to the district
2 court for the district in which the applicant resides for
3 a hearing on the matter. Such court shall only have juris-
4 diction to review the basis for delay and remand the mat-
5 ter to the Secretary of Homeland Security for the Sec-
6 retary’s determination on the application.”.

7 (b) LIMITATIONS ON REVIEW OF DENIAL.—Sub-
8 section (c) of section 310 of the Immigration and Nation-
9 ality Act (8 U.S.C. 1421(c)) is amended to read as follows:

10 “(c) JUDICIAL REVIEW.—

11 “(1) JUDICIAL REVIEW OF DENIAL.—A person
12 whose application for naturalization under this title
13 is denied, after a hearing before an immigration offi-
14 cer under section 336(a), may seek, not later than
15 120 days after the date of the Secretary of Home-
16 land Security’s final determination on the applica-
17 tion, review of such denial before the United States
18 district court for the district in which such person
19 resides in accordance with chapter 7 of title 5,
20 United States Code.

21 “(2) BURDEN OF PROOF.—The burden shall be
22 upon the petitioner to show that the denial by the
23 Secretary of Homeland Security of the application
24 for naturalization was not supported by facially le-
25 gitimate and bona fide reasons.

1 “(3) LIMITATIONS ON REVIEW.—Except in a
2 proceeding under section 340, and notwithstanding
3 any other provision of law, including section 2241 of
4 title 28, United States Code, any other habeas cor-
5 pus provision, and sections 1361 and 1651 of such
6 title, no court shall have jurisdiction to determine, or
7 to review a determination of the Secretary of Home-
8 land Security made at any time regarding, whether,
9 for purposes of an application for naturalization, an
10 alien—

11 “(A) is a person of good moral character;

12 “(B) understands and is attached to the
13 principles of the Constitution of the United
14 States; or

15 “(C) is well disposed to the good order and
16 happiness of the United States.”.

17 (c) EFFECTIVE DATE AND APPLICATION.—The
18 amendments made by this subsection—

19 (1) shall take effect on the date of the enact-
20 ment of this Act;

21 (2) shall apply to any act that occurred before,
22 on, or after such date of enactment; and

23 (3) shall apply to any application for natu-
24 ralization or any other case or matter under the im-

1 migration laws that is pending on, or filed after,
2 such date of enactment.

3 **SEC. 615. ENHANCEMENTS TO DENATURALIZATION AU-**
4 **THORITIES.**

5 Section 340 of the Immigration and Nationality Act
6 (8 U.S.C. 1451) is amended by adding at the end the fol-
7 lowing:

8 “(i) ADMINISTRATIVE DENATURALIZATION.—

9 “(1) AUTHORITY TO REVOKE.—Notwith-
10 standing subsection (a), the Secretary of Homeland
11 Security may revoke the naturalization and cancel
12 any certificate of naturalization if the Secretary de-
13 termines by clear and convincing evidence that it
14 was procured illegally or by willful misrepresentation
15 or conceal of a material fact.

16 “(2) ADMINISTRATIVE REVIEW OF REVOCATION.—The Secretary of Homeland Security shall
17 provide for a single level of administrative appellate
18 review of any revocation made under paragraph (1)
19 in a separate body from the Administrative Appeals
20 Office of U.S. Citizenship and Immigration Services
21 of the Department of Homeland Security.

22 “(3) JUDICIAL REVIEW OF REVOCATION.—A
23 person whose naturalization has been revoked under
24 paragraph (1) may, after seeking administrative re-
25

1 view of such decision under paragraph (2), seek judi-
2 cial review of the Secretary of Homeland Security's
3 final order of revocation in the manner provided for
4 judicial review of final orders of removal under sec-
5 tion 242.”.

6 **SEC. 616. EXPATRIATE TERRORIST ACT.**

7 (a) SHORT TITLE.—This section may be cited as the
8 “Expatriate Terrorist Act”.

9 (b) LOSS OF NATIONALITY DUE TO SUPPORT OF
10 TERRORISM.—Subsection (a) of section 349 of the Immi-
11 gration and Nationality Act (8 U.S.C. 1481(a)) is amend-
12 ed to read as follows:

13 “(a) IN GENERAL.—A person who is a national of
14 the United States whether by birth or naturalization, shall
15 lose his or her nationality by voluntarily performing any
16 of the following acts with the intention of relinquishing
17 United States nationality:

18 “(1) Obtaining naturalization in a foreign state
19 upon his or her own application or upon an applica-
20 tion filed by a duly authorized agent, after having
21 attained 18 years of age.

22 “(2) Taking an oath or making an affirmation
23 or other formal declaration of allegiance to a foreign
24 state, a political subdivision thereof, or a foreign ter-

1 rorist organization designated under section 219,
2 after having attained 18 years of age.

3 “(3) Entering, or serving in, the armed forces
4 of a foreign state or a foreign terrorist organization
5 designated under section 219 if—

6 “(A) such armed forces are engaged in
7 hostilities against the United States; or

8 “(B) such person serve sas a commissioned
9 or noncommissioned officer.

10 “(4) Becoming a member of, or providing train-
11 ing or material assistance to, any foreign terrorist
12 organization designated under section 219.

13 “(5) Accepting, serving in, or performing the
14 duties of any office, post, or employment under the
15 government of a foreign state, a political subdivision
16 thereof, or a foreign terrorist organization des-
17 ignated under section 219 if—

18 “(A) the person knowingly has or acquires
19 the nationality of such foreign state; or

20 “(B) an oath, affirmation, or declaration
21 of allegiance to the foreign state, political sub-
22 division, or designated foreign terrorist organi-
23 zation is required for such office, post, or em-
24 ployment.

1 “(6) Making a formal renunciation nationality
2 before a diplomatic or consular officer of the United
3 States in a foreign state, in such form as may be
4 prescribed by the Secretary of State.

5 “(7) Making in the United States, a formal
6 written renunciation of nationality in such form as
7 may be prescribed by, and before such officer as
8 may be designated by, the Attorney General, when-
9 ever the United States shall be in a state of war, as
10 declared by Congress, under its powers under section
11 8 of Article I of the Constitution of the United
12 States, and the Attorney General shall approve such
13 renunciation as not contrary to the interests of na-
14 tional defense.

15 “(8)(A) Committing any act of treason against,
16 or attempting by force to overthrow, or bearing arms
17 against, the United States;

18 “(B) violating or conspiring to violate any of
19 the provisions of section 2383 of title 18, United
20 States Code;

21 “(C) willfully performing any act in violation of
22 section 2385 of such title; or

23 “(D) violating section 2384 of such title by en-
24 gaging in a conspiracy to overthrow, put down, or to
25 destroy by force the Government of the United

1 States, or to levy war against them, if and when
2 such person is convicted thereof by a court martial
3 or by a court of competent jurisdiction.”.

4 (c) REVOCATION OR DENIAL OF PASSPORTS AND
5 PASSPORT CARDS TO INDIVIDUALS WHO ARE MEMBERS
6 OF FOREIGN TERRORIST ORGANIZATIONS.—The Act enti-
7 tled “An Act to regulate the issue and validity of pass-
8 ports, and for other purposes”, approved July 3, 1926 (22
9 U.S.C. 211a et seq.) (commonly known as the “Passport
10 Act of 1926”), is amended by adding at the end the fol-
11 lowing:

12 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
13 **PASSPORT CARD.**

14 “(a) INELIGIBILITY.—

15 “(1) ISSUANCE.—The Secretary of State shall
16 not issue a passport or passport card to any indi-
17 vidual whom the Secretary has determined is a
18 member, or is attempting to become a member, of
19 an organization the Secretary has designated as a
20 foreign terrorist organization pursuant to section
21 219 of the Immigration and Nationality Act (8
22 U.S.C. 1189).

23 “(2) REVOCATION.—The Secretary of State
24 shall revoke a passport or passport card previously
25 issued to any individual described in paragraph (1).

1 “(b) RIGHT OF REVIEW.—Any person who, in ac-
2 cordance with this section, is denied issuance of a passport
3 or passport card by the Secretary of State, or whose pass-
4 port or passport card is revoked or otherwise restricted
5 by the Secretary of State, may request a due process hear-
6 ing not later than 60 days after receiving such notice of
7 the nonissuance, revocation, or restriction.”.

8 **TITLE VII—OTHER MATTERS**

9 **SEC. 701. EXEMPTION FROM THE ADMINISTRATIVE PROCE-** 10 **DURES ACT.**

11 Chapter 5 of title 5, United States Code (commonly
12 known as the “Administrative Procedures Act”), and any
13 other law relating to rulemaking, information collection,
14 or publication in the Federal Register, shall not apply to
15 any action to implement this Act, and the amendments
16 made by this Act, to the extent the Secretary, the Sec-
17 retary of State, or the Attorney General determines that
18 compliance with any such law would impede the expedi-
19 tious implementation of this Act or the amendments made
20 by this Act.

21 **SEC. 702. EXEMPTION FROM THE PAPERWORK REDUCTION** 22 **ACT.**

23 Chapter 35 of title 44, United States Code, shall not
24 apply to any action to implement this Act or the amend-
25 ments made by this Act to the extent the Secretary, the

1 Secretary of State, or the Attorney General determines
2 that compliance with any such chapter would impede the
3 expeditious implementation of such Act or the amend-
4 ments made by this Act.

5 **SEC. 703. REFERENCES TO AUTHORITY IN THE IMMIGRA-**
6 **TION AND NATIONALITY ACT.**

7 **【To be supplied.】**

8 **SEC. 704. TECHNICAL CORRECTIONS.**

9 Clause (i) of section 204(a)(1)(B) of the Immigration
10 and Nationality Act (8 U.S.C. 1154(a)(1)(B)(i)) is
11 amended—

12 (1) by redesignating the second subclause (I) as
13 subclause (II); and

14 (2) by moving subclause (II), as redesignated
15 by paragraph (1), 8 ems to the left.

16 **SEC. 705. SEVERABILITY.**

17 If any provision of this Act or any amendment made
18 by this Act, or any application of such provision or amend-
19 ment to any person or circumstance, is held to be uncon-
20 stitutional, the remainder of the provisions of this Act and
21 the amendments made by this Act and the application of
22 the provision or amendment to any other person or cir-
23 cumstance shall not be affected.

1 **SEC. 706. OFFSET; RESCISSION OF UNOBLIGATED FEDERAL**
2 **FUNDS.**

3 (a) IN GENERAL.—There is hereby rescinded, from
4 appropriated discretionary funds that remain available for
5 obligation as of the date of the enactment of this Act
6 (other than the unobligated funds described in paragraph
7 (d)), amounts determined by the Director of the Office
8 of Management and Budget such that the aggregate
9 amount of the rescission equals the amount authorized to
10 be appropriated under subsection (____).

11 (b) IMPLEMENTATION.—The Director of the Office of
12 Management and Budget shall determine and identify—

13 (1) the appropriation accounts from which the
14 rescission under paragraph (a) shall apply; and

15 (2) the amount of the rescission that shall be
16 applied to each such account.

17 (c) REPORT.—Not later than 60 days after the date
18 of the enactment of this Act, the Director of the Office
19 of Management and Budget shall submit a report to Con-
20 gress and to the Secretary of the Treasury that describes
21 the accounts and amounts determined and identified
22 under paragraph (b) for rescission under paragraph (a).

23 (d) EXCEPTIONS.—This subsection shall not apply to
24 unobligated funds of—

25 (1) the Department;

26 (2) the Department of Defense; or

1 (3) the Department of Veterans Affairs.

2 **TITLE VIII—TECHNICAL**
3 **AMENDMENTS**

4 **SEC. 801. MISCELLANEOUS TECHNICAL AMENDMENTS.**

5 The Immigration and Nationality Act (8 U.S.C. 1101
6 et seq.) is amended—

7 (1) by striking paragraph 101(a)(8), and insert-
8 ing a new paragraph (8) to read:

9 “(8) The term ‘Department’ means the Depart-
10 ment of Homeland Security, except for paragraph
11 103(a)(6) of this Act.”;

12 (2) in section 101(a)(15) of the Immigration
13 and Nationality Act (8 U.S.C. 1101(a)(15))—

14 (A) by striking the term “Attorney Gen-
15 eral” wherever the term appears and inserting
16 “Secretary” in paragraph (a)(15)(F)(i);

17 (B) by striking the phrase “certifies to the
18 Attorney General that the intending employer
19 has filed with the Secretary” and inserting
20 “certifies to the Secretary of Homeland Secu-
21 rity that the intending employer has filed with
22 the Secretary of Labor” in paragraph
23 (a)(15)(H)(i)(b);

24 (C) by striking the phrase “certifies to the
25 Attorney General” and inserting “certifies to

1 the Secretary of Homeland Security” in para-
2 graph (a)(15)(H)(i)(c);

3 (D) by striking the term “Attorney Gen-
4 eral” wherever the term appears and inserting
5 “Secretary” in paragraph (a)(15)(M)(i);

6 (3) in section 101(a)(18) of the Immigration
7 and Nationality Act (8 U.S.C. 1101(a)(18)), by
8 striking “Service or of the United States designated
9 by the Attorney General” and inserting “Depart-
10 ment of Homeland Security or of the United States
11 designated by the Secretary”;

12 (4) striking paragraph 101(a)(34), and insert-
13 ing a new paragraph (34) reading:

14 “(34) The term ‘Secretary’ means the Secretary
15 of Homeland Security, except as provided by para-
16 graph 219(d)(4) of this Act).”;

17 (5) in section 101(a)(44)(C) of the Immigration
18 and Nationality Act (8 U.S.C. 1101(a)(44)(C)), by
19 striking “Attorney General” and inserting “Sec-
20 retary”;

21 (6) in section 101(a)(47)(A) of the Immigration
22 and Nationality Act (8 U.S.C. 1101(a)(47)(A))—

23 (A) by striking “order of deportation” and
24 inserting “order of removal”;

1 (B) by striking “special inquiry officer”
2 and inserting “immigration judge”;

3 (C) by inserting “or the Secretary” after
4 “Attorney General;

5 (D) by striking “deportable” and inserting
6 “removable”; and

7 (E) by striking “deportation” and insert-
8 ing “removal”;

9 (7) in section 101(b)(1)(F)(i) of the Immigra-
10 tion and Nationality Act (8 U.S.C.
11 1101(b)(1)(F)(i)), by striking “Attorney General”
12 and inserting “Secretary”;

13 (8) in section 101(b)(4) of the Immigration and
14 Nationality Act (8 U.S.C. 1101(b)(4)), by striking
15 “Immigration and Naturalization Service” and in-
16 serting “Department of Homeland Security”;

17 (9) in section 103 of the Immigration and Na-
18 tionality Act (8 U.S.C. 1103)—

19 (A) by striking “Attorney General” and in-
20 serting “Secretary” in paragraph (a)(10);

21 (B) by striking “Service” and inserting
22 “Department of Homeland Security” in para-
23 graph (a)(10);

1 (C) by striking “Service” and inserting
2 “Department of Homeland Security” in para-
3 graph (a)(11);

4 (D) by striking paragraph (c) and insert-
5 ing a new paragraph to read as follows:

6 “(c) SECRETARY; APPOINTMENT.—The Secretary
7 shall be a citizen of the United States and shall be ap-
8 pointed by the President, by and with the advice and con-
9 sent of the Senate. He shall be charged with any and all
10 responsibilities and authority in the administration of the
11 Department and of this Act, except for such authorities
12 reserved to the Attorney General under section 101(g) and
13 the Secretary of State under section 104.”;

14 (E) by striking the word “Commissioner”
15 and inserting “Secretary” in paragraph (e);

16 (F) by striking “Attorney General” and in-
17 serting “Secretary” and striking “Immigration
18 and Naturalization Service” and “Service” and
19 inserting Department” in paragraph (f);

20 (G) by striking “the Immigration Reform,
21 Accountability and Security Enhancement Act
22 of 2002” and inserting “Homeland Security
23 Act” in paragraph (g)(1);

1 (10) in section 105(a), by striking “Commis-
2 sioner” wherever the term may appear and inserting
3 “Secretary”;

4 (11) in section 212(e) of the Immigration and
5 Nationality Act (8 U.S.C. 1182(e)), by revising the
6 first proviso to read: “*Provided*, That upon the fa-
7 vorable recommendation of the Director, pursuant to
8 the request of an interested United States Govern-
9 ment agency (or, in the case of an alien described
10 in clause (iii), pursuant to the request of a State
11 Department of Public Health, or its equivalent), or
12 after the Secretary has determined that departure
13 from the United States would impose exceptional
14 hardship upon the alien’s spouse or child (if such
15 spouse or child is a citizen of the United States or
16 a lawfully resident alien), or that the alien cannot
17 return to the country of his nationality or last resi-
18 dence because he would be subject to persecution on
19 account of race, religion, or political opinion, the
20 Secretary may waive the requirement of such two-
21 year foreign residence abroad in the case of any
22 alien whose admission to the United States is found
23 by the Secretary to be in the public interest except
24 that in the case of a waiver requested by a State De-
25 partment of Public Health, or its equivalent, or in

1 the case of a waiver requested by an interested
2 United States Government agency on behalf of an
3 alien described in clause (iii), the waiver shall be
4 subject to the requirements of section 1184(l) of this
5 title:” ;

6 (12) in section 231 (8 U.S.C. 1221)—

7 (A) by striking “Attorney General” and in-
8 serting “Secretary” in subparagraph (e)(10);

9 (B) by striking “Attorney General” wher-
10 ever the term appears and inserting “Sec-
11 retary” in subparagraph (f);

12 (C) by striking the first reference to the
13 term “Attorney General” and striking “Com-
14 missioner” wherever the term appears and in-
15 serting “Secretary” in subparagraph (g); and

16 (D) by striking “Attorney General” wher-
17 ever the term appears and inserting “Sec-
18 retary” in subparagraph (h);

19 (13) in section 238 of the Immigration and Na-
20 tionality Act (8 U.S.C. 1228) is amended by—

21 (A) striking the term “Attorney General”
22 wherever the term appears and inserting “Sec-
23 retary” in paragraph (a)(2);

24 (B) striking the terms “Commissioner”
25 and “Attorney General” wherever the terms ap-

1 pear and inserting “Secretary” in paragraph
2 (c);

3 (14) in section 241 of the Immigration and Na-
4 tionality Act (8 U.S.C. 1231) is amended by—

5 (A) striking the header of paragraph (g)(2)
6 and inserting “DETENTION FACILITIES OF THE
7 DEPARTMENT OF HOMELAND SECURITY”;

8 (B) striking the term “Commissioner” and
9 inserting “Secretary” in paragraph (g)(2);

10 (15) in section 243 of the Immigration and Na-
11 tionality Act (8 U.S.C. 1253) is amended by striking
12 the terms “Attorney General” and “Commissioner”
13 wherever the terms appear and inserting “Sec-
14 retary” in paragraph (c)(1)(A) and (B);

15 (16) in section 251 of the Immigration and Na-
16 tionality Act (8 U.S.C. 1281) is amended by striking
17 the terms “Attorney General” and “Commissioner”
18 wherever the terms appear and inserting “Sec-
19 retary” in paragraph (d);

20 (17) in section 254 of the Immigration and Na-
21 tionality Act (8 U.S.C. 1284) is amended by striking
22 the term “Commissioner” and inserting “Secretary”
23 in paragraph (a);

24 (18) in section 255 of the Immigration and Na-
25 tionality Act (8 U.S.C. 1285) is amended by striking

1 the term “Commissioner” wherever the term appears
2 and inserting “Secretary” in paragraph (a);

3 (19) in section 256 of the Immigration and Na-
4 tionality Act (8 U.S.C. 1286) is amended by—

5 (A) striking the term “Commissioner”
6 wherever the term appears and inserting “Sec-
7 retary”;

8 (B) striking the term “Attorney General”
9 in the first and second sentences and inserting
10 “Secretary”;

11 (20) in section 272 of the Immigration and Na-
12 tionality Act (8 U.S.C. 1322) is amended by striking
13 the term “Commissioner” wherever the term appears
14 and inserting “Secretary”;

15 (21) In section 273 of the Immigration and Na-
16 tionality Act (8 U.S.C. 1323) is amended by—

17 (A) striking the term “Commissioner”
18 wherever the term appears and inserting “Sec-
19 retary”;

20 (B) striking the term “Attorney General”
21 wherever the term appears, except in the intro-
22 ductory text of paragraph (e), and inserting
23 “Secretary”;

24 (22) in section 274D of the Immigration and
25 Nationality Act (8 U.S.C. 1324d) is amended by

1 striking the term “Commissioner” and inserting
2 “Secretary”;

3 (23) in section 316 of the Immigration and Na-
4 tionality Act (8 U.S.C. 1427) is amended by striking
5 the term “Commissioner of Immigration” and in-
6 serting “Secretary”;

7 (24) in subchapter III, Part II, table of con-
8 tents, by revising the entry for section 1453 to read:

“1453. Cancellation of certificates issued by the Attorney General, the Commis-
sioner or a Deputy Commissioner, or the Secretary of Home-
land Security; action not to affect citizenship status.”.

9 (25) Striking the term “Attorney General”
10 wherever it appears and inserting the term “Sec-
11 retary”. These amendments shall not apply to any
12 joint references to the Attorney General and the
13 Secretary of Homeland Security, or to the following
14 references—

15 (A) paragraph 101(a)(5);

16 (B) paragraph 101(a)(15)(S);

17 (C) paragraph 101(a)(15)(T);

18 (D) paragraph 101(a)(15)(V);

19 (E) subparagraph 101(a)(47)(A);

20 (F) paragraph 101(b)(4);

21 (G) paragraph 103(a)(1);

22 (H) paragraph 103(g);

23 (I) paragraph 103(h);

24 (J) paragraph 105(b)(1);

- 1 (K) paragraph 105(c);
- 2 (L) subclause 203(b)(2)(B)(ii)(II);
- 3 (M) subsection 204(c);
- 4 (N) section 208 (except for subparagraph
- 5 208(c)(1) and paragraphs 208(d)(2) and (3), to
- 6 which the amendment shall apply);
- 7 (O) subparagraphs 212(a)(2)(C), (2)(H)
- 8 and (2)(I);
- 9 (P) subparagraph 212(a)(3)(A);
- 10 (Q) subclause 212(a)(3)(B)(ii)(II);
- 11 (R) subparagraph 212(a)(3)(D);
- 12 **[(S) subparagraph 212(a)(4);]**
- 13 **[(T) clause 212(a)(9)(B)(v);]**
- 14 (U) paragraphs 212(d)(11) and (12);
- 15 (V) subsections 212(g), (h), (i), (k) and
- 16 (s);
- 17 **[(W) paragraph 213A(a)(1);]**
- 18 **[(X) subparagraph 213A(f)(6)(B);]**
- 19 (Y) paragraph 216(d)(2)(c);
- 20 (Z) paragraph 219(d)(4);
- 21 (AA) subclause 235(b)(1)(B)(iii)(III);
- 22 (BB) the second sentence of subsection
- 23 236(e);
- 24 (CC) section 237;
- 25 (DD) paragraphs 238(a)(1) and (3);

1 (EE) subparagraph 238(a)(4)(A);
2 (FF) paragraphs 238(b)(1) and (5);
3 (GG) subparagraph 238(c)(2)(D)(iv);
4 (HH) subsection 239(a);
5 (II) subsection 239(b);
6 (JJ) section 240;
7 (KK) section 240A (except for the second
8 reference in paragraph 240A(b)(3) and for
9 paragraph 240A(b)(4), to which the amendment
10 shall apply);
11 (LL) paragraphs 240B(a)(1) and (a)(3);
12 (MM) subsection 240B(b);
13 (NN) subsection 240B(c);
14 (OO) the first reference in clause
15 241(a)(4)(B)(i);
16 (PP) paragraph 241(b)(3) (except for the
17 first reference in subparagraph 241(b)(3)(A), to
18 which the amendment shall apply);
19 (QQ) subsection 241(i) (except for clause
20 241(i)(3)(B)(i), to which the amendment shall
21 apply);
22 (RR) paragraph 242(a)(2)(B);
23 (SS) subsection 242(b) (except for para-
24 graph 242(b)(8), to which the amendment shall
25 apply);

1 (TT) subsection 242(g);
2 (UU) paragraph 244(a)(3)(C);
3 (VV) paragraph 244(c)(2);
4 (WW) subsections 244(e) and (g);
5 (XX) section 245 (except for clause
6 245(i)(1)(B)(i), paragraph 245(i)(3)) and the
7 first reference to the Attorney General in sub-
8 section 245(j));
9 (YY) subparagraph 245A(a)(1)(A);
10 (ZZ) subsection 246(a) (except for the
11 third time the term “Attorney General” appears
12 to which the amendment shall apply);
13 (AAA) section 249;
14 (BBB) subsection 264(f);
15 (CCC) subsection 274(e);
16 (DDD) section 274A;
17 (EEE) section 274B;
18 (FFF) section 274C (except for the first
19 sentence of subparagraph 274C(d)(2)(A));
20 (GGG) section 292;
21 (HHH) subsection 316(d);
22 (III) paragraph 316(f)(1);
23 (JJJ) the first reference following “Pro-
24 vided” in section 318;
25 (KKK) section 342;

1 (LLL) subparagraph 412(f)(1)(A); and

2 (MMM) title V (except for subsections

3 506(a)(1) and 507(b), (c), and (d) (first ref-

4 erence), to which the amendment shall apply);

5 (26) in subparagraph 238(c)(2)(D)(iv), striking

6 “Attorney General” and inserting in lieu thereof

7 “United States Attorney”;

8 (27) striking “Service” and “Immigration and

9 Naturalization Service” wherever they appear and

10 inserting in lieu thereof “Department”, except this

11 amendment shall not apply to paragraph 274A;

12 (28) striking “Department of Justice” wherever

13 it appears and inserting in lieu thereof “Depart-

14 ment”, except that this amendment shall not apply

15 to paragraph 103(a)(4), paragraph 274B(c)(1), or

16 title V;

17 (29) striking “Commissioner” and “Commis-

18 sioner of Immigration and Naturalization” wherever

19 they appear, and inserting in lieu thereof “Sec-

20 retary”, except that this amendment shall not apply

21 to any reference to a “Deputy Commissioner” or to

22 the “Commissioner of Social Security”, or to para-

23 graph 316(f)(1);

1 (30) in the matter following paragraph
2 294(a)(4), striking “, in consultation with the Dep-
3 uty Attorney General,”;

4 (31) in subsection 294(d), striking “Deputy At-
5 torney General” and inserting in lieu thereof “Sec-
6 retary”;

7 (32) in section 342, striking “, the Commis-
8 sioner or a Deputy Commissioner” in the heading,
9 striking “heretofore issued or made by the Commis-
10 sioner or a Deputy Commissioner or hereafter made
11 by”, and striking “practiced upon, him or the Com-
12 missioner or a Deputy Commissioner”;

13 (33) in paragraph 236A(a)(4), striking “Dep-
14 uty Attorney General” both times it appears and in-
15 serting in lieu thereof “Deputy Secretary of Home-
16 land Security”;

17 (34) in section 103—

18 (A) amending the section heading to read,
19 “Powers and duties of the Secretary and the
20 Attorney General”;

21 (B) in paragraph (a)(1), inserting “the
22 Secretary of Labor, the Secretary of Agri-
23 culture, the Secretary of Health and Human
24 Services, the Commissioner of Social Security,”
25 after “the President, the Attorney General,”;

1 (C) in paragraph (a)(4), striking “or the
2 Department of Justice”;

3 (D) in paragraph (a)(6), inserting “or
4 upon consular officers with respect to the
5 granting or refusal of visas” before the period;

6 (35) in subparagraph 202(a)(1)(B), inserting
7 “the Secretary or” after “the authority of”;

8 (36) in subclause 203(b)(2)(B)(ii)(II) inserting
9 “the Secretary or” before “the Attorney General”;

10 (37) in subsection 203(g), striking “Sec-
11 retary’s” and inserting “Secretary of State’s”, and
12 inserting “of State” after “but the Secretary”;

13 (38) in clause 204(a)(1) (G)(ii), inserting “of
14 State” after “by the Secretary”;

15 (39) in subsection 204(c), inserting “the Sec-
16 retary or” before “the Attorney General” wherever
17 it appears;

18 (40) in section 208, inserting “or the Sec-
19 retary” after “Attorney General” wherever it ap-
20 pears (except for subparagraph 208(b)(1)(A));

21 (41) in subparagraph 209(a)(1)(A) by striking
22 “or the Attorney General” each time that term ap-
23 pears;

24 (42) in subparagraphs 212(a)(2)(C),
25 212(a)(2)(H)(ii), 212(a)(2)(I), 212(a)(3)(A) and

1 subclause 212(a)(3)(B)(ii)(II) inserting “, the Sec-
2 retary” before “or the Attorney General” each time
3 that term appears;

4 (43) in subparagraph 212(a)(3)(D) inserting
5 “the Secretary or” before “the Attorney General”
6 each time that term appears;

7 (44) in subparagraph 212(a)(4)(A) inserting
8 “the Secretary or” before “the Attorney General”;

9 (45) in subparagraph 212(a)(4)(B) inserting “,
10 the Secretary” before “or the Attorney General”
11 each time that term appears;

12 (46) in subparagraph 212(a)(5)(C) striking
13 “. . .or, in the case of an adjustment of status, the
14 Attorney General, a certificate from the Commission
15 on Graduates of Foreign Nursing Schools, or a cer-
16 tificate from an equivalent independent credentialing
17 organization approved by the Attorney General. . .”
18 and replacing it with “. . .or, in the case of an ad-
19 justment of status, the Secretary or the Attorney
20 General, a certificate from the Commission on Grad-
21 uates of Foreign Nursing Schools, or a certificate
22 from an equivalent independent credentialing organi-
23 zation approved by the Secretary. . .”;

1 (47) in clause 212(a)(9)(B)(v), inserting “or
2 the Secretary” after “Attorney General” each time
3 that term appears;

4 (48) in clause 212(a)(9)(B)(v), striking “has
5 sole discretion” and inserting “have discretion”;

6 (49) in clause 212(a)(9)(C)(iii) inserting “or
7 the Attorney General” after “Secretary of Homeland
8 Security”;

9 (50) in subclauses 212(a)(10)(C)(ii)(III) and
10 (iii)(II), striking “Secretary’s” and inserting “Sec-
11 retary of State’s”;

12 (51) in paragraphs 212(d)(11) and (12), insert-
13 ing “or the Secretary” after “Attorney General”
14 each time it appears;

15 (52) in subsections 212(g), (h), (i), and (k), in-
16 serting “or the Secretary” after “Attorney General”
17 each time that term appears;

18 (53) in subsections 212(m)(2)(E)(iv), inserting
19 “of Labor” after “Secretary” the second and third
20 times that term appears;

21 (54) in subsection 212(n), inserting “of Labor”
22 after “Secretary” each time that term appears, ex-
23 cept that this amendment shall not apply to ref-
24 erences to the “Secretary of Labor”;

1 (55) in subsection 212(s) inserting “, the Sec-
2 retary” before “or the Attorney General”;

3 (56) in paragraph 213A(a)(1) inserting “, the
4 Secretary” after “the Attorney General”;

5 (57) in subparagraph 213A(f)(6)(B) inserting
6 “the Secretary” after “The Secretary of State,”;

7 (58) in section 218, inserting “of Labor” after
8 “Secretary” each time that term appears, except
9 that this amendment shall not apply to references to
10 the “Secretary of Labor” or to the “Secretary of
11 Agriculture”;

12 (59) in clause 218(c)(3)(B)(iii) and paragraph
13 218(g)(4), striking “Secretary’s” and inserting
14 “Secretary of Labor’s” and “Secretary of Agri-
15 culture’s”, respectively;

16 (60) in paragraph 219(d)(4), inserting “Sec-
17 retary of Homeland Security,” after “with the”;

18 (61) in section 222, inserting “or the Sec-
19 retary” after “Secretary of State” wherever it ap-
20 pears;

21 (62) in section 222(f), inserting “, the Depart-
22 ment,” after “Department of State”, and in para-
23 graph 222(f)(2) striking “Secretary’s” and inserting
24 “their”;

1 (63) in section 236(a) inserting “the Secretary
2 or” before “the Attorney General” the third time
3 that term appears;

4 (64) in section 236(e), inserting “, other than
5 administrative review by the Attorney General pur-
6 suant to the authority granted by section 103(g) of
7 this Act” before the period at the end of the first
8 sentence, and inserting “the Secretary or” before
9 “Attorney General” in the second sentence;

10 (65) in the matter preceding paragraph
11 237(a)(1), inserting “following the initiation by the
12 Secretary of removal proceedings” after “upon the
13 order of the Attorney General”;

14 (66) in subparagraphs 238(a)(3) and (4)(A),
15 inserting “and the Secretary” after “Attorney Gen-
16 eral”;

17 (67) in paragraph 238(b)(1), inserting “or the
18 Secretary” after “Attorney General”;

19 (68) in paragraph 238(b)(5), inserting “or the
20 Secretary” after “Attorney General”, and striking
21 “Attorney General’s” and inserting “his”;

22 (69) in subsection 239(a)(1), inserting “and the
23 Secretary” after “the Attorney General” each time
24 it appears;

1 (70) in subsection 240(b)(1), inserting “, with
2 the concurrence of the Secretary with respect to em-
3 ployees of the Department” after “Attorney Gen-
4 eral”;

5 (71) in subparagraph 240(b)(5)(A) inserting
6 “the Secretary or” before “the Attorney General”;

7 (72) in paragraph 240(c)(2), inserting “, the
8 Secretary of State, or the Secretary” before “to be
9 confidential”;

10 (73) in paragraphs 240B(a)(1) and (a)(3), in-
11 serting “or the Secretary” after “Attorney General”;

12 (74) in subsection 240B(c), inserting “and the
13 Secretary” after “Attorney General”;

14 (75) in subsection 242(g), inserting “the Sec-
15 retary or” before “the Attorney General”;

16 (76) in subsection 243(d), inserting “of State”
17 after “notifies the Secretary”;

18 (77) in paragraph 244(c)(2) inserting “or the
19 Secretary” after “Attorney General” each time the
20 term appears;

21 (78) in subsection 244(g) inserting “or the Sec-
22 retary” after “Attorney General”;

23 (79) in section 245 inserting “or the Secretary”
24 after “Attorney General” each time the term ap-
25 pears (except for subsections 245(j) (excluding the

1 first reference), 245(l), and 245(m) to which this
2 amendment shall not apply);

3 (80) striking subparagraph 245A(c)(7)(C);

4 (81) in subsection 246(a), inserting “or the
5 Secretary” after “Attorney General” the first two
6 times the term appears;

7 (82) in section 249, inserting “or the Sec-
8 retary” after “Attorney General” wherever the term
9 appears;

10 (83) in section 258, inserting “of Labor” after
11 “Secretary” wherever it appears, except that this
12 amendment shall not apply to references to the
13 “Secretary of Labor” or to paragraph 258(e)(2);

14 (84) in paragraph 258(e)(2), striking “the Sec-
15 retary shall” and inserting “the Secretary of State
16 shall”;

17 (85) in subsection 264(f), striking “Attorney
18 General is”, and inserting “Attorney General and
19 Secretary are”;

20 (86) in paragraph 274(b)(2), striking “Sec-
21 retary of the Treasury” and inserting “Secretary”;

22 (87) in paragraph 274C(d)(2)(A) insert “or
23 Secretary” after the first reference to the Attorney
24 General;

1 (88) in subclause 286(q)(1)(B), striking “, in
2 consultation with the Secretary of the Treasury,”;

3 (89) in subsection 316(d), inserting “or by the
4 Secretary” after “Attorney General”;

5 (90) in paragraph 316(f)(1), striking “, the At-
6 torney General and the Commissioner of Immigra-
7 tion” and inserting “and the Secretary”;

8 (91) in subsection 504(i), striking “Attorney
9 General” and inserting “Government”; and

10 (92) in paragraph 505(e)(2), inserting “and the
11 Secretary” after “Attorney General”.

12 **SEC. 802. REPEALS AND CONSTRUCTION.**

13 (a) REPEALS.—The following provisions of law are
14 repealed—

15 (1) section 4 of the Act of February 14, 1903,
16 as amended (32 Stat. 826, 8 U.S.C. 1551; relating
17 to the establishment of the Immigration and Natu-
18 ralization Service);

19 (2) section 7 of the Act of March 3, 1891, as
20 amended (26 Stat. 1085, 8 U.S.C. 1552; relating to
21 the office of Commissioner of Immigration and Nat-
22 uralization);

23 (3) section 201 of the Act of June 20, 1956 (70
24 Stat. 307, 8 U.S.C. 1553; relating to the compensa-

1 tion of assistant commissioners and district direc-
2 tor); and

3 (4) section 1 of the Act of March 2, 1895 (28
4 Stat. 780, 8 U.S.C. 1554; relating to special immi-
5 grant inspectors).

6 (b) CONSTRUCTION.—Nothing in this title shall be
7 construed to repeal or limit the applicability of sections
8 462 and 1512 of the Homeland Security Act of 2002 with
9 respect to any provision of law or matter not specifically
10 addressed by the amendments made by this title.

11 **SEC. 803. MISCELLANEOUS TECHNICAL CORRECTIONS.**

12 (a) **【HEADER?】**.—Adam Walsh Child Protection and
13 Safety Act of 2006, Public Law 109–248 is amended in
14 section 402(a)(3)(B) is revised by renumbering the new
15 subclause to read “‘(II)’” instead of “‘(I)’”.

16 (b) IIRIRA AMENDMENTS.—Public Law 104–208 is
17 amended—

18 (1) in Division C, section 625, subsection (a),
19 by revising paragraph (2) to read:

20 “(2) CONFORMING AMENDMENT.—Section
21 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amend-
22 ed by inserting ‘consistent with section 214(m)’ after
23 ‘such course of study.’”;

1 (2) in division C, section 671(b), by striking
2 subsection (b)(13) and redesignating subsection
3 (b)(14) as subsection (b)(13).

4 (c) **【HEADER?】**.—The Immigration and Nationality
5 Act, (8 U.S.C. 1101 et seq.), is amended—

6 (1) in section 101(a)(15)(F), by striking
7 “214(l)” and inserting “214(m)” in paragraph (i);

8 (2) in section 101(a)(27)(L), by adding a semi-
9 colon and “or” at the end of subparagraph (L)(iii);

10 (3) in section 101(a)(43) by—

11 (A) adding “is” before “at least” in sub-
12 paragraphs (F) and (G); and

13 (B) adding a semicolon at the end of sub-
14 paragraph (O);

15 (4) in section 204(e) by adding “to” after “ad-
16 mitted”;

17 (5) in subsection 212e(a), by inserting “the
18 Secretary or” before “the Attorney General” and in-
19 serting “of State” after “Secretary” the second and
20 third times that term appears as currently written;

21 (6) in section 212f, by inserting “of State”
22 after “Secretary” every time that term appears.

23 (d) **【HEADER?】**.—Section 403h of title 50, United
24 States Code, is amended by striking the term “Commis-
25 sioner” and inserting “Secretary”.