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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

Making continuing appropriations for fiscal year 2024, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DONALDS (for himself, Mr. JOHNSON of South Dakota, Mr. PERRY, Mrs. BICE, Mr. ROY, and Mr. ARMSTRONG) introduced the following bill; which was referred to the Committee on

A BILL

Making continuing appropriations for fiscal year 2024, 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.**

4 This Act may be cited as the “Continuing Appropria-
5 tions and Border Security Enhancement Act, 2024”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
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- Sec. 118. Publication by U.S. Customs and Border Protection of operational statistics.
- Sec. 119. Alien criminal background checks.
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- Sec. 302. Negotiations by Secretary of State.
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- Sec. 401. Clarification of standards for family detention.

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TITLE VI—VISA OVERSTAYS PENALTIES

- Sec. 601. Expanded penalties for illegal entry or presence.

TITLE VII—IMMIGRATION PAROLE REFORM

- Sec. 701. Immigration parole reform.
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- Sec. 704. Severability.

1 **SEC. 3. REFERENCES.**

2 Except as expressly provided otherwise, any reference
3 to “this Act” contained in any division of this Act shall
4 be treated as referring only to the provisions of that divi-
5 sion.

1 **DIVISION A—CONTINUING**
2 **APPROPRIATIONS ACT, 2024**

3 The following sums are hereby appropriated, out of
4 any money in the Treasury not otherwise appropriated,
5 and out of applicable corporate or other revenues, receipts,
6 and funds, for the several departments, agencies, corpora-
7 tions, and other organizational units of Government for
8 fiscal year 2024, and for other purposes, namely:

9 SEC. 101. (a) Such amounts as may be necessary,
10 at a rate for operations as provided in the applicable ap-
11 propriations Acts for fiscal year 2023 and under the au-
12 thority and conditions provided in such Acts, for con-
13 tinuing projects or activities (including the costs of direct
14 loans and loan guarantees) that are not otherwise specifi-
15 cally provided for in this Act, that were conducted in fiscal
16 year 2023, and for which appropriations, funds, or other
17 authority were made available in the following appropria-
18 tions Acts:

19 (1) The Agriculture, Rural Development, Food
20 and Drug Administration, and Related Agencies Ap-
21 propriations Act, 2023 (division A of Public Law
22 117–328).

23 (2) The Commerce, Justice, Science, and Re-
24 lated Agencies Appropriations Act, 2023 (division B
25 of Public Law 117–328).

1 (3) The Department of Defense Appropriations
2 Act, 2023 (division C of Public Law 117–328).

3 (4) The Energy and Water Development and
4 Related Agencies Appropriations Act, 2023 (division
5 D of Public Law 117–328), except the first proviso
6 under the heading “Department of Energy—Energy
7 Programs—SPR Petroleum Account”.

8 (5) The Financial Services and General Govern-
9 ment Appropriations Act, 2023 (division E of Public
10 Law 117–328).

11 (6) The Department of Homeland Security Ap-
12 propriations Act, 2023 (division F of Public Law
13 117–328), including title III of division O of Public
14 Law 117–328.

15 (7) The Department of the Interior, Environ-
16 ment, and Related Agencies Appropriations Act,
17 2023 (division G of Public Law 117–328).

18 (8) The Departments of Labor, Health and
19 Human Services, and Education, and Related Agen-
20 cies Appropriations Act, 2023 (division H of Public
21 Law 117–328).

22 (9) The Legislative Branch Appropriations Act,
23 2023 (division I of Public Law 117–328).

1 (10) The Military Construction, Veterans Af-
2 fairs, and Related Agencies Appropriations Act,
3 2023 (division J of Public Law 117–328).

4 (11) The Department of State, Foreign Oper-
5 ations, and Related Programs Appropriations Act,
6 2023 (division K of Public Law 117–328).

7 (12) The Transportation, Housing and Urban
8 Development, and Related Agencies Appropriations
9 Act, 2023 (division L of Public Law 117–328).

10 (b) The rate for operations provided by subsection (a)
11 is hereby reduced by 8.1285 percent, so that the total
12 amount of annualized discretionary budget authority for
13 fiscal year 2024 is equal to \$1,590,000,000,000: *Provided,*
14 That the reduction in this subsection will not apply to the
15 rate for operations provided for the national defense budg-
16 et function (050), the Department of Veterans Affairs, or
17 amounts designated as being for disaster relief pursuant
18 to section 251(b)(2)(D) of the Balanced Budget and
19 Emergency Deficit Control Act of 1985.

20 SEC. 102. (a) No appropriation or funds made avail-
21 able or authority granted pursuant to section 101 for the
22 Department of Defense shall be used for:

23 (1) the new production of items not funded for
24 production in fiscal year 2023 or prior years;

1 (2) the increase in production rates above those
2 sustained with fiscal year 2023 funds; or

3 (3) the initiation, resumption, or continuation
4 of any project, activity, operation, or organization
5 (defined as any project, subproject, activity, budget
6 activity, program element, and subprogram within a
7 program element, and for any investment items de-
8 fined as a P-1 line item in a budget activity within
9 an appropriation account and an R-1 line item that
10 includes a program element and subprogram element
11 within an appropriation account) for which appro-
12 priations, funds, or other authority were not avail-
13 able during fiscal year 2023.

14 (b) No appropriation or funds made available or au-
15 thority granted pursuant to section 101 for the Depart-
16 ment of Defense shall be used to initiate multi-year pro-
17 curements utilizing advance procurement funding for eco-
18 nomic order quantity procurement unless specifically ap-
19 propriated later.

20 SEC. 103. Appropriations made by section 101 shall
21 be available to the extent and in the manner that would
22 be provided by the pertinent appropriations Act.

23 SEC. 104. Except as otherwise provided in section
24 102, no appropriation or funds made available or author-
25 ity granted pursuant to section 101 shall be used to ini-

1 tiate or resume any project or activity for which appro-
2 priations, funds, or other authority were not available dur-
3 ing fiscal year 2023.

4 SEC. 105. Appropriations made and authority grant-
5 ed pursuant to this Act shall cover all obligations or ex-
6 penditures incurred for any project or activity during the
7 period for which funds or authority for such project or
8 activity are available under this Act.

9 SEC. 106. Unless otherwise provided for in this Act
10 or in the applicable appropriations Act for fiscal year
11 2024, appropriations and funds made available and au-
12 thority granted pursuant to this Act shall be available
13 until whichever of the following first occurs:

14 (1) The enactment into law of an appropriation
15 for any project or activity provided for in this Act.

16 (2) The enactment into law of the applicable
17 appropriations Act for fiscal year 2024 without any
18 provision for such project or activity.

19 (3) October 31, 2023.

20 SEC. 107. Expenditures made pursuant to this Act
21 shall be charged to the applicable appropriation, fund, or
22 authorization whenever a bill in which such applicable ap-
23 propriation, fund, or authorization is contained is enacted
24 into law.

1 SEC. 108. Appropriations made and funds made
2 available by or authority granted pursuant to this Act may
3 be used without regard to the time limitations for submis-
4 sion and approval of apportionments set forth in section
5 1513 of title 31, United States Code, but nothing in this
6 Act may be construed to waive any other provision of law
7 governing the apportionment of funds.

8 SEC. 109. Notwithstanding any other provision of
9 this Act, except section 106, for those programs that
10 would otherwise have high initial rates of operation or
11 complete distribution of appropriations at the beginning
12 of fiscal year 2024 because of distributions of funding to
13 States, foreign countries, grantees, or others, such high
14 initial rates of operation or complete distribution shall not
15 be made, and no grants shall be awarded for such pro-
16 grams funded by this Act that would impinge on final
17 funding prerogatives.

18 SEC. 110. This Act shall be implemented so that only
19 the most limited funding action of that permitted in the
20 Act shall be taken in order to provide for continuation of
21 projects and activities.

22 SEC. 111. (a) For entitlements and other mandatory
23 payments whose budget authority was provided in appro-
24 priations Acts for fiscal year 2023, and for activities under
25 the Food and Nutrition Act of 2008, activities shall be

1 continued at the rate to maintain program levels under
2 current law, under the authority and conditions provided
3 in the applicable appropriations Act for fiscal year 2023,
4 to be continued through the date specified in section
5 106(3).

6 (b) Notwithstanding section 106, obligations for man-
7 datory payments due on or about the first day of any
8 month that begins after October 2023 but not later than
9 30 days after the date specified in section 106(3) may con-
10 tinue to be made, and funds shall be available for such
11 payments.

12 SEC. 112. Amounts made available under section 101
13 for civilian personnel compensation and benefits in each
14 department and agency may be apportioned up to the rate
15 for operations necessary to avoid furloughs within such de-
16 partment or agency, consistent with the applicable appro-
17 priations Act for fiscal year 2023, except that such author-
18 ity provided under this section shall not be used until after
19 the department or agency has taken all necessary actions
20 to reduce or defer non-personnel-related administrative ex-
21 penses.

22 SEC. 113. Funds appropriated by this Act may be
23 obligated and expended notwithstanding section 10 of
24 Public Law 91-672 (22 U.S.C. 2412), section 15 of the
25 State Department Basic Authorities Act of 1956 (22

1 U.S.C. 2680), section 313 of the Foreign Relations Au-
2 thorization Act, Fiscal Years 1994 and 1995 (22 U.S.C.
3 6212), and section 504(a)(1) of the National Security Act
4 of 1947 (50 U.S.C. 3094(a)(1)).

5 SEC. 114. (a) Each amount incorporated by reference
6 in this Act that was previously designated by the Congress
7 as an emergency requirement pursuant to section
8 4001(a)(1) of S. Con. Res. 14 (117th Congress), the con-
9 current resolution on the budget for fiscal year 2022, and
10 section 1(e) of H. Res. 1151 (117th Congress), as en-
11 grossed in the House of Representatives on June 8, 2022,
12 is designated by the Congress as an emergency require-
13 ment pursuant to section 251(b)(2)(A) of the Balanced
14 Budget and Emergency Deficit Control Act of 1985.

15 (b) Each amount incorporated by reference in this
16 Act that was previously designated as being for disaster
17 relief pursuant to a concurrent resolution on the budget
18 in the Senate and section 1(f) of H. Res. 1151 (117th
19 Congress), as engrossed in the House of Representatives
20 on June 8, 2022, is designated by the Congress as being
21 for disaster relief pursuant to section 251(b)(2)(D) of
22 such Act.

23 (c) This section shall become effective immediately
24 upon enactment of this Act, and shall remain in effect
25 through the date in section 106(3).

1 SEC. 115. (a) Rescissions or cancellations of discre-
2 tionary budget authority that continue pursuant to section
3 101 in Treasury Appropriations Fund Symbols (TAFS)—

4 (1) to which other appropriations are not pro-
5 vided by this Act, but for which there is a current
6 applicable TAFS that does receive an appropriation
7 in this Act; or

8 (2) which are no-year TAFS and receive other
9 appropriations in this Act,
10 may be continued instead by reducing the rate for oper-
11 ations otherwise provided by section 101 for such current
12 applicable TAFS, as long as doing so does not impinge
13 on the final funding prerogatives of the Congress.

14 (b) Rescissions or cancellations described in sub-
15 section (a) shall continue in an amount equal to the lesser
16 of—

17 (1) the amount specified for rescission or can-
18 cellation in the applicable appropriations Act ref-
19 erenced in section 101 of this Act; or

20 (2) the amount of balances available, as of Oc-
21 tober 1, 2023, from the funds specified for rescission
22 or cancellation in the applicable appropriations Act
23 referenced in section 101 of this Act.

24 (c) No later than October 11, 2023, the Director of
25 the Office of Management and Budget shall provide to the

1 Committees on Appropriations of the House of Represent-
2 atives and the Senate a comprehensive list of the rescis-
3 sions or cancellations that will continue pursuant to sec-
4 tion 101: *Provided*, That the information in such com-
5 prehensive list shall be periodically updated to reflect any
6 subsequent changes in the amount of balances available,
7 as of October 1, 2023, from the funds specified for rescis-
8 sion or cancellation in the applicable appropriations Act
9 referenced in section 101, and such updates shall be trans-
10 mitted to the Committees on Appropriations of the House
11 of Representatives and the Senate upon request.

12 SEC. 116. Amounts made available by section 101 for
13 “Farm Service Agency—Agricultural Credit Insurance
14 Fund Program Account” may be apportioned up to the
15 rate for operations necessary to accommodate approved
16 applications for direct and guaranteed farm ownership
17 loans, as authorized by 7 U.S.C. 1922 et seq.

18 SEC. 117. Amounts made available by section 101 to
19 the Department of Agriculture for “Rural Housing Serv-
20 ice—Rental Assistance Program” may be apportioned up
21 to the rate for operations necessary to maintain activities
22 as authorized by section 521(a)(2) of the Housing Act of
23 1949.

24 SEC. 118. Section 260 of the Agricultural Marketing
25 Act of 1946 (7 U.S.C. 1636i) and section 942 of the Live-

1 stock Mandatory Reporting Act of 1999 (7 U.S.C. 1635
2 note; Public Law 106–78) shall be applied by substituting
3 the date specified in section 106(3) of this Act for “Sep-
4 tember 30, 2023”.

5 SEC. 119. Notwithstanding sections 102 and 104 of
6 this Act, amounts made available by section 101(3) for
7 the Department of Defense may be apportioned up to the
8 rate for operations necessary to facilitate the programs
9 and activities set forth in H.R. 4365, the Department of
10 Defense Appropriations Act, 2024, reported by the House
11 Committee on Appropriations on June 27, 2023, subject
12 to the terms and conditions therein.

13 SEC. 120. Notwithstanding sections 102 and 104 of
14 this Act, amounts made available by section 101 to the
15 Department of Defense for “Shipbuilding and Conversion,
16 Navy” shall be available for the procurement of one Co-
17 lumbia Class Submarine.

18 SEC. 121. During the period covered by this Act, sec-
19 tion 714(b)(2)(B) of title 10, United States Code, shall
20 be applied by substituting “four years” for “two years”.

21 SEC. 122. In addition to amounts otherwise provided
22 by section 101, amounts are provided for “Department of
23 Energy—Energy Programs—Nuclear Energy” at a rate
24 for operations of \$220,000,000: *Provided*, That amounts
25 are provided for necessary expenses related to Risk Reduc-

1 tion for Future Demonstrations at a rate for operations
2 of \$120,000,000 and Advanced Nuclear Fuel Availability
3 at a rate for operations of \$100,000,000.

4 SEC. 123. Amounts made available by section 101 for
5 “Small Business Administration—Business Loans Pro-
6 gram Account” may be apportioned up to the rate for op-
7 erations necessary to accommodate increased demand for
8 commitments for general business loans authorized under
9 paragraphs (1) through (35) of section 7(a) of the Small
10 Business Act (15 U.S.C. 636(a)), for commitments to
11 guarantee trust certificates authorized by section 5(g) of
12 the Small Business Act (15 U.S.C. 634(g)), for commit-
13 ments to guarantee loans under section 503 of the Small
14 Business Investment Act of 1958 (15 U.S.C. 697), and
15 for commitments to guarantee loans for debentures under
16 section 303(b) of the Small Business Investment Act of
17 1958 (15 U.S.C. 683(b)).

18 SEC. 124. Notwithstanding any other provision of
19 this Act, except section 106, the District of Columbia may
20 expend local funds made available under the heading “Dis-
21 trict of Columbia—District of Columbia Funds” for such
22 programs and activities under the District of Columbia
23 Appropriations Act, 2023 (title IV of division E of Public
24 Law 117–328) at the rate set forth in the Fiscal Year

1 2024 Local Budget Act of 2023 (D.C. Bill 25–161), as
2 modified as of the date of enactment of this Act.

3 SEC. 125. Amounts made available by section 101 to
4 the Department of Homeland Security under the heading
5 “Federal Emergency Management Agency—Disaster Re-
6 lief Fund” may be apportioned up to the rate for oper-
7 ations necessary to carry out response and recovery activi-
8 ties under the Robert T. Stafford Disaster Relief and
9 Emergency Assistance Act (42 U.S.C. 5121 et seq.).

10 SEC. 126. Amounts provided by section 101 shall not
11 be made available to utilize the U.S. Customs and Border
12 Protection CBP One Application, or any successor appli-
13 cation, to facilitate the parole of any alien into the United
14 States.

15 SEC. 127. (a) Amounts provided by section 101 shall
16 not be made available to transport aliens unlawfully
17 present in, paroled into, or inadmissible to the United
18 States into the interior of the United States for purposes
19 other than enforcement of the immigration laws (as such
20 term is defined in section 101 of the Immigration and Na-
21 tionality Act (8 U.S.C. 1101)).

22 (b) The limitation under subsection (a) shall not
23 apply with respect to amounts made available to transport
24 unaccompanied alien children (as such term is defined in

1 section 462 of the Homeland Security Act of 2002 (6
2 U.S.C. 279)).

3 SEC. 128. Amounts provided by section 101 shall not
4 be made available to issue any employment authorization
5 document or similar document to any alien whose applica-
6 tion for asylum in the United States has been denied, or
7 who is convicted of a Federal or State crime while his or
8 her application for asylum in the United States is pending.

9 SEC. 129. Amounts provided by section 101 shall not
10 be made available to obligate, expend, or transfer to an-
11 other Federal agency, board, or commission to be used to
12 dismantle, demolish, remove, or damage existing United
13 States-Mexico physical barriers at any location where such
14 barriers have been constructed as of the date of enactment
15 of this Act unless such barrier is simultaneously being re-
16 paired or replaced.

17 SEC. 130. Amounts provided by section 101 shall not
18 be made available to implement, administer, or otherwise
19 carry out the activities and policies described in the memo-
20 randum issued by the Secretary of Homeland Security on
21 September 30, 2021, entitled “Guidelines for the Enforce-
22 ment of Civil Immigration Law” or described in the
23 memorandum issued by Kerry Doyle, Immigration and
24 Customs Enforcement Principal Legal Advisor on April 3,
25 2022, entitled “Guidance to OPLA Attorneys Regarding

1 the Enforcement of Civil Immigration Laws and the Exer-
2 cise of 20 Prosecutorial Discretion” or any successor or
3 similar memorandum or policy.

4 SEC. 131. Amounts provided by section 101 shall not
5 be made available to implement, administer, or otherwise
6 carry out the policies described in the directive issued by
7 the Acting Commissioner of U.S. Customs and Border
8 Protection on January 10, 2023, entitled “Emergency
9 Driving and Vehicular Pursuits”.

10 SEC. 132. Amounts provided by section 101 shall not
11 be made available to implement, administer, or enforce the
12 rule entitled “Procedures or Credible Fear Screening and
13 Consideration of Asylum, Withholding of Removal, and
14 CAT Protection Claims by Asylum Officers” (87 Fed.
15 Reg. 18078).

16 SEC. 133. Amounts provided by section 101 shall not
17 be made available to release (including pursuant to parole
18 or release pursuant to section 236(a) of the Immigration
19 and Nationality Act but excluding as expressly authorized
20 pursuant to section 212(d)(5)) an alien described in sec-
21 tion 235(b)(1)(A)(i)–(ii), (b)(1)(B), or (b)(2), other than
22 to be removed, including to a country described in section
23 208(a)(2)(A), or returned to a country as described in sec-
24 tion 235(b)(3).

1 SEC. 134. Amounts provided by section 101 shall not
2 be made available to implement, administer, or enforce the
3 rule related to “Circumvention of Lawful Pathways” (88
4 Fed. Reg. 11704).

5 SEC. 135. (a) Sections 1309(a) and 1319 of the Na-
6 tional Flood Insurance Act of 1968 (42 U.S.C. 4016(a)
7 and 4026) shall be applied by substituting the date speci-
8 fied in section 106(3) of this Act for “September 30,
9 2023”.

10 (b)(1) Subject to paragraph (2), this section shall be-
11 come effective immediately upon enactment of this Act.

12 (2) If this Act is enacted after September 30, 2023,
13 this section shall be applied as if it were in effect on Sep-
14 tember 30, 2023.

15 SEC. 136. (a) Of the amounts made available pursu-
16 ant to section 40803(c)(2) of Public Law 117–58, the Sec-
17 retary of Agriculture shall transfer to the Secretary of the
18 Interior such sums as are necessary to continue without
19 interruption the Federal wildland firefighter base salary
20 increase provided under Section 40803(d)(4)(B) of such
21 Public Law.

22 (b) In carrying out subsection (a), the Secretary of
23 Agriculture—

24 (1) may make more than one transfer of funds
25 under this section; and

1 (2) may not transfer a total amount of funds
2 greater than \$17,250,000.

3 (c) No funds transferred pursuant to this section may
4 be obligated without prior written notification, to the Com-
5 mittees on Appropriations of the House of Representatives
6 and the Senate, of the date of the transfer, the total
7 amount to be transferred, and the remaining funds avail-
8 able for transfer.

9 SEC. 137. Notwithstanding section 101, section 126
10 of Division J of Public Law 117–328 shall be applied dur-
11 ing the period covered by this Act by substituting “fiscal
12 year 2017, fiscal year 2018, and fiscal year 2019” for “fis-
13 cal year 2017 and fiscal year 2018”.

14 This division may be cited as the “Continuing Appro-
15 priations Act, 2024”.

16 **DIVISION B—OTHER MATTERS**

17 **SEC. 101. STATUTORY PAYGO SCORECARDS.**

18 The budgetary effects of this division and each suc-
19 ceeding division shall not be entered on either PAYGO
20 scorecard maintained pursuant to section 4(d) of the Stat-
21 utory Pay-As-You-Go Act of 2010.

22 **SEC. 102. SENATE PAYGO SCORECARDS.**

23 The budgetary effects of this division and each suc-
24 ceeding division shall not be entered on any PAYGO score-

1 card maintained for purposes of section 4106 of H. Con.
2 Res. 71 (115th Congress).

3 **SEC. 103. CLASSIFICATION OF BUDGETARY EFFECTS.**

4 Notwithstanding Rule 3 of the Budget Scorekeeping
5 Guidelines set forth in the joint explanatory statement of
6 the committee of conference accompanying Conference Re-
7 port 105–217 and section 250(c)(8) of the Balanced
8 Budget and Emergency Deficit Control Act of 1985, the
9 budgetary effects of this division and each succeeding divi-
10 sion shall not be estimated—

11 (1) for purposes of section 251 of such Act;

12 (2) for purposes of an allocation to the Com-
13 mittee on Appropriations pursuant to section 302(a)
14 of the Congressional Budget Act of 1974; and

15 (3) for purposes of paragraph (4)(C) of section
16 3 of the Statutory Pay-As-You-Go Act of 2010 as
17 being included in an appropriation Act.

18 **DIVISION C—BORDER SECURITY**

19 **SEC. 101. DEFINITIONS.**

20 In this division:

21 (1) CBP.—The term “CBP” means U.S. Cus-
22 toms and Border Protection.

23 (2) COMMISSIONER.—The term “Commis-
24 sioner” means the Commissioner of U.S. Customs
25 and Border Protection.

1 (3) DEPARTMENT.—The term “Department”
2 means the Department of Homeland Security.

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

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

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

14 (7) UNMANNED AIRCRAFT SYSTEM.—The term
15 “unmanned aircraft system” has the meaning given
16 such term in section 44801 of title 49, United
17 States Code.

18 **SEC. 102. BORDER WALL CONSTRUCTION.**

19 (a) IN GENERAL.—

20 (1) IMMEDIATE RESUMPTION OF BORDER WALL
21 CONSTRUCTION.—Not later than seven days after
22 the date of the enactment of this Act, the Secretary
23 shall resume all activities related to the construction
24 of the border wall along the border between the

1 United States and Mexico that were underway or
2 being planned for prior to January 20, 2021.

3 (2) USE OF FUNDS.—To carry out this section,
4 the Secretary shall expend all unexpired funds ap-
5 propriated or explicitly obligated for the construction
6 of the border wall that were appropriated or obli-
7 gated, as the case may be, for use beginning on Oc-
8 tober 1, 2019.

9 (3) USE OF MATERIALS.—Any unused materials
10 purchased before the date of the enactment of this
11 Act for construction of the border wall may be used
12 for activities related to the construction of the bor-
13 der wall in accordance with paragraph (1).

14 (b) PLAN TO COMPLETE TACTICAL INFRASTRUC-
15 TURE AND TECHNOLOGY.—Not later than 90 days after
16 the date of the enactment of this Act and annually there-
17 after until construction of the border wall has been com-
18 pleted, the Secretary shall submit to the appropriate con-
19 gressional committees an implementation plan, including
20 annual benchmarks for the construction of 200 miles of
21 such wall and associated cost estimates for satisfying all
22 requirements of the construction of the border wall, in-
23 cluding installation and deployment of tactical infrastruc-
24 ture, technology, and other elements as identified by the
25 Department prior to January 20, 2021, through the ex-

1 penditure of funds appropriated or explicitly obligated, as
2 the case may be, for use, as well as any future funds ap-
3 propriated or otherwise made available by Congress.

4 (c) DEFINITIONS.—In this section:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means the Committee on Homeland Secu-
8 rity and the Committee on Appropriations of the
9 House of Representatives and the Committee on
10 Homeland Security and Governmental Affairs and
11 the Committee on Appropriations of the Senate.

12 (2) TACTICAL INFRASTRUCTURE.—The term
13 “tactical infrastructure” includes boat ramps, access
14 gates, checkpoints, lighting, and roads associated
15 with a border wall.

16 (3) TECHNOLOGY.—The term “technology” in-
17 cludes border surveillance and detection technology,
18 including linear ground detection systems, associated
19 with a border wall.

20 **SEC. 103. STRENGTHENING THE REQUIREMENTS FOR BAR-**
21 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

3 “(a) IN GENERAL.—The Secretary of Homeland Se-
4 curity shall take such actions as may be necessary (includ-
5 ing the removal of obstacles to detection of illegal en-
6 trants) to design, test, construct, install, deploy, integrate,
7 and operate physical barriers, tactical infrastructure, and
8 technology in the vicinity of the southwest border to
9 achieve situational awareness and operational control of
10 the southwest border and deter, impede, and detect unlaw-
11 ful activity.”;

12 (2) in subsection (b)—

13 (A) in the subsection heading, by striking
14 “FENCING AND ROAD IMPROVEMENTS” and in-
15 serting “PHYSICAL BARRIERS”;

16 (B) in paragraph (1)—

17 (i) in the heading, by striking “FENC-
18 ING” and inserting “BARRIERS”;

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

21 “(A) REINFORCED BARRIERS.—In carrying
22 out this section, the Secretary of Homeland Se-
23 curity shall construct a border wall, including
24 physical barriers, tactical infrastructure, and
25 technology, along not fewer than 900 miles of

1 the southwest border until situational aware-
2 ness and operational control of the southwest
3 border is achieved.”;

4 (iii) by amending subparagraph (B) to
5 read as follows:

6 “(B) PHYSICAL BARRIERS AND TACTICAL
7 INFRASTRUCTURE.—In carrying out this sec-
8 tion, the Secretary of Homeland Security shall
9 deploy along the southwest border the most
10 practical and effective physical barriers, tactical
11 infrastructure, and technology available for
12 achieving situational awareness and operational
13 control of the southwest border.”;

14 (iv) in subparagraph (C)—

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

17 “(i) IN GENERAL.—In carrying out
18 this section, the Secretary of Homeland
19 Security shall consult with the Secretary of
20 the Interior, the Secretary of Agriculture,
21 appropriate representatives of State, Trib-
22 al, and local governments, and appropriate
23 private property owners in the United
24 States to minimize the impact on natural
25 resources, commerce, and sites of historical

1 or cultural significance for the commu-
2 nities and residents located near the sites
3 at which physical barriers, tactical infra-
4 structure, and technology are to be con-
5 structed. Such consultation may not delay
6 such construction for longer than seven
7 days.”; and

8 (II) in clause (ii)—

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

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

14 “(II) delay the transfer to the
15 United States of the possession of
16 property or affect the validity of any
17 property acquisition by the United
18 States by purchase or eminent do-
19 main, or to otherwise affect the emi-
20 nent domain laws of the United States
21 or of any State; or”; and

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

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

- 1 (v) by striking subparagraph (D);
- 2 (C) in paragraph (2)—
- 3 (i) by striking “Attorney General”
- 4 and inserting “Secretary of Homeland Se-
- 5 curity”;
- 6 (ii) by striking “this subsection” and
- 7 inserting “this section”; and
- 8 (iii) by striking “construction of
- 9 fences” and inserting “the construction of
- 10 physical barriers, tactical infrastructure,
- 11 and technology”;
- 12 (D) by amending paragraph (3) to read as
- 13 follows:
- 14 “(3) AGENT SAFETY.—In carrying out this sec-
- 15 tion, the Secretary of Homeland Security, when de-
- 16 signing, testing, constructing, installing, deploying,
- 17 integrating, and operating physical barriers, tactical
- 18 infrastructure, or technology, shall incorporate such
- 19 safety features into such design, test, construction,
- 20 installation, deployment, integration, or operation of
- 21 such physical barriers, tactical infrastructure, or
- 22 technology, as the case may be, that the Secretary
- 23 determines are necessary to maximize the safety and
- 24 effectiveness of officers and agents of the Depart-
- 25 ment of Homeland Security or of any other Federal

1 agency deployed in the vicinity of such physical bar-
2 riers, tactical infrastructure, or technology.”; and

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

5 (3) in subsection (c)—

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

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, the Secretary of Homeland Security
10 shall waive all legal requirements necessary to en-
11 sure the expeditious design, testing, construction, in-
12 stallation, deployment, integration, operation, and
13 maintenance of the physical barriers, tactical infra-
14 structure, and technology under this section. The
15 Secretary shall ensure the maintenance and effec-
16 tiveness of such physical barriers, tactical infrastruc-
17 ture, or technology. Any such action by the Sec-
18 retary shall be effective upon publication in the Fed-
19 eral Register.”;

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

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

24 “(2) NOTIFICATION.—Not later than seven
25 days after the date on which the Secretary of Home-

1 land Security exercises a waiver pursuant to para-
2 graph (1), the Secretary shall notify the Committee
3 on Homeland Security of the House of Representa-
4 tives and the Committee on Homeland Security and
5 Governmental Affairs of the Senate of such waiver.”;
6 and

7 (4) by adding at the end the following new sub-
8 sections:

9 “(e) TECHNOLOGY.—In carrying out this section, the
10 Secretary of Homeland Security shall deploy along the
11 southwest border the most practical and effective tech-
12 nology available for achieving situational awareness and
13 operational control.

14 “(f) DEFINITIONS.—In this section:

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

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

1 “(3) PHYSICAL BARRIERS.—The term ‘physical
2 barriers’ includes reinforced fencing, the border wall,
3 and levee walls.

4 “(4) SITUATIONAL AWARENESS.—The term ‘sit-
5 uational awareness’ has the meaning given such
6 term in section 1092(a)(7) of the National Defense
7 Authorization Act for Fiscal Year 2017 (Public Law
8 114–328; 6 U.S.C. 223(a)(7)).

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

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

15 “(A) Tower-based surveillance technology.

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

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

20 “(D) 3-dimensional, seismic acoustic detec-
21 tion and ranging border tunneling detection
22 technology.

23 “(E) Advanced unattended surveillance
24 sensors.

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

3 “(G) Unmanned aircraft systems.

4 “(H) Tunnel detection systems and other
5 seismic technology.

6 “(I) Fiber-optic cable.

7 “(J) Other border detection, communica-
8 tion, and surveillance technology.

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

13 **SEC. 104. BORDER AND PORT SECURITY TECHNOLOGY IN-**
14 **VESTMENT PLAN.**

15 (a) IN GENERAL.—Not later than 180 days after the
16 date of the enactment of this Act, the Commissioner, in
17 consultation with covered officials and border and port se-
18 curity technology stakeholders, shall submit to the appro-
19 priate congressional committees a strategic 5-year tech-
20 nology investment plan (in this section referred to as the
21 “plan”). The plan may include a classified annex, if appro-
22 priate.

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

1 (1) An analysis of security risks at and between
2 ports of entry along the northern and southern bor-
3 ders of the United States.

4 (2) An identification of capability gaps with re-
5 spect to security at and between such ports of entry
6 to be mitigated in order to—

7 (A) prevent terrorists and instruments of
8 terror from entering the United States;

9 (B) combat and reduce cross-border crimi-
10 nal activity, including—

11 (i) the transport of illegal goods, such
12 as illicit drugs; and

13 (ii) human smuggling and human
14 trafficking; and

15 (C) facilitate the flow of legal trade across
16 the southwest border.

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

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

22 (B) are unlawfully present in the United
23 States.

24 (4) A description of security-related technology
25 acquisitions, to be listed in order of priority, to ad-

1 dress the security risks and capability gaps analyzed
2 and identified pursuant to paragraphs (1) and (2),
3 respectively.

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

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

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

15 (8) An identification and assessment of ways to
16 increase opportunities for communication and col-
17 laboration with the private sector, small and dis-
18 advantaged businesses, intragovernment entities,
19 university centers of excellence, and federal labora-
20 tories to ensure CBP is able to engage with the mar-
21 ket for security-related technologies that are avail-
22 able to satisfy its mission needs before engaging in
23 an acquisition of a security-related technology.

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

4 (10) An identification of ways to leverage al-
5 ready-existing acquisition expertise within the Fed-
6 eral Government.

7 (11) A description of the security resources, in-
8 cluding information security resources, required to
9 protect security-related technology from physical or
10 cyber theft, diversion, sabotage, or attack.

11 (12) A description of initiatives to—

12 (A) streamline the acquisition process of
13 CBP; and

14 (B) provide to the private sector greater
15 predictability and transparency with respect to
16 such process, including information relating to
17 the timeline for testing and evaluation of secu-
18 rity-related technology.

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

22 (14) In the case of a new acquisition leading to
23 the removal of equipment from a port of entry along
24 the northern or southern border of the United
25 States, a strategy to consult with the private sector

1 and community stakeholders affected by such re-
2 moval.

3 (15) A strategy to consult with the private sec-
4 tor and community stakeholders with respect to se-
5 curity impacts at a port of entry described in para-
6 graph (14).

7 (16) An identification of recent technological
8 advancements in the following:

9 (A) Manned aircraft sensor, communica-
10 tion, and common operating picture technology.

11 (B) Unmanned aerial systems and related
12 technology, including counter-unmanned aerial
13 system technology.

14 (C) Surveillance technology, including the
15 following:

16 (i) Mobile surveillance vehicles.

17 (ii) Associated electronics, including
18 cameras, sensor technology, and radar.

19 (iii) Tower-based surveillance tech-
20 nology.

21 (iv) Advanced unattended surveillance
22 sensors.

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

1 (D) Nonintrusive inspection technology, in-
2 cluding non-x-ray devices utilizing muon tomog-
3 raphy and other advanced detection technology.

4 (E) Tunnel detection technology.

5 (F) Communications equipment, including
6 the following:

7 (i) Radios.

8 (ii) Long-term evolution broadband.

9 (iii) Miniature satellites.

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

12 (1) leverage emerging technological capabilities,
13 and research and development trends, within the
14 public and private sectors;

15 (2) incorporate input from the private sector,
16 including from border and port security stake-
17 holders, through requests for information, industry
18 day events, and other innovative means consistent
19 with the Federal Acquisition Regulation; and

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

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

1 (e) DISCLOSURE.—The plan shall include an identi-
2 fication of individuals not employed by the Federal Gov-
3 ernment, and their professional affiliations, who contrib-
4 uted to the development of the plan.

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

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

12 (2) a report that includes—

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

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

22 (g) DEFINITIONS.—In this section:

23 (1) APPROPRIATE CONGRESSIONAL COMMIT-
24 TEES.—The term “appropriate congressional com-
25 mittees” means—

1 (A) the Committee on Homeland Security
2 and the Committee on Appropriations of the
3 House of Representatives; and

4 (B) the Committee on Homeland Security
5 and Governmental Affairs and the Committee
6 on Appropriations of the Senate.

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

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

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

13 (C) the Chief Information Officer of the
14 Department.

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

19 **SEC. 105. BORDER SECURITY TECHNOLOGY PROGRAM**
20 **MANAGEMENT.**

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

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

3 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
4 this section, the term ‘major acquisition program’ means
5 an acquisition program of the Department that is esti-
6 mated by the Secretary to require an eventual total ex-
7 penditure of at least \$100,000,000 (based on fiscal year
8 2023 constant dollars) over its life-cycle cost.

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

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

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

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

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

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

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

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

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

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of the Homeland Security Act of 2002 is
3 amended by inserting after the item relating to section
4 436 the following new item:

“Sec. 437. Border security technology program management.”.

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

10 **SEC. 106. U.S. CUSTOMS AND BORDER PROTECTION TECH-**
11 **NOLOGY UPGRADES.**

12 (a) SECURE COMMUNICATIONS.—The Commissioner
13 shall ensure that each CBP officer or agent, as appro-
14 priate, is equipped with a secure radio or other two-way
15 communication device that allows each such officer or
16 agent to communicate—

17 (1) between ports of entry and inspection sta-
18 tions; and

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

21 (b) BORDER SECURITY DEPLOYMENT PROGRAM.—

22 (1) EXPANSION.—Not later than September 30,
23 2025, the Commissioner shall—

24 (A) fully implement the Border Security
25 Deployment Program of CBP; and

1 (B) expand the integrated surveillance and
2 intrusion detection system at land ports of
3 entry along the northern and southern borders
4 of the United States.

5 (2) AUTHORIZATION OF APPROPRIATIONS.—In
6 addition to amounts otherwise authorized to be ap-
7 propriated for such purpose, there is authorized to
8 be appropriated \$33,000,000 for fiscal years 2024
9 and 2025 to carry out paragraph (1).

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

12 (1) UPGRADE.—Not later than two years after
13 the date of the enactment of this Act, the Commis-
14 sioner shall upgrade all existing license plate readers
15 in need of upgrade, as determined by the Commis-
16 sioner, on the northern and southern borders of the
17 United States.

18 (2) AUTHORIZATION OF APPROPRIATIONS.—In
19 addition to amounts otherwise authorized to be ap-
20 propriated for such purpose, there is authorized to
21 be appropriated \$125,000,000 for fiscal years 2023
22 and 2024 to carry out paragraph (1).

1 **SEC. 107. U.S. CUSTOMS AND BORDER PROTECTION PER-**
2 **SONNEL.**

3 (a) **RETENTION BONUS.**—To carry out this section,
4 there is authorized to be appropriated up to \$100,000,000
5 to the Commissioner to provide a retention bonus to any
6 front-line U.S. Border Patrol law enforcement agent—

7 (1) whose position is equal to or below level
8 GS–12 of the General Schedule;

9 (2) who has five years or more of service with
10 the U.S. Border Patrol; and

11 (3) who commits to two years of additional
12 service with the U.S. Border Patrol upon acceptance
13 of such bonus.

14 (b) **BORDER PATROL AGENTS.**—Not later than Sep-
15 tember 30, 2025, the Commissioner shall hire, train, and
16 assign a sufficient number of Border Patrol agents to
17 maintain an active duty presence of not fewer than 22,000
18 full-time equivalent Border Patrol agents, who may not
19 perform the duties of processing coordinators.

20 (c) **PROHIBITION AGAINST ALIEN TRAVEL.**—No per-
21 sonnel or equipment of Air and Marine Operations may
22 be used for the transportation of non-detained aliens, or
23 detained aliens expected to be administratively released
24 upon arrival, from the southwest border to destinations
25 within the United States.

1 (d) GAO REPORT.—If the staffing level required
2 under this section is not achieved by the date associated
3 with such level, the Comptroller General of the United
4 States shall—

5 (1) conduct a review of the reasons why such
6 level was not so achieved; and

7 (2) not later than September 30, 2027, publish
8 on a publicly available website of the Government
9 Accountability Office a report relating thereto.

10 **SEC. 108. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-**
11 **TION.**

12 (a) HIRING FLEXIBILITY.—Section 3 of the Anti-
13 Border Corruption Act of 2010 (6 U.S.C. 221; Public Law
14 111–376) is amended by striking subsection (b) and in-
15 serting the following new subsections:

16 “(b) WAIVER REQUIREMENT.—Subject to subsection
17 (c), the Commissioner of U.S. Customs and Border Pro-
18 tection shall waive the application of subsection (a)(1)—

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

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

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

7 “(C) is not currently under investigation,
8 has not been found to have engaged in criminal
9 activity or serious misconduct, has not resigned
10 from a law enforcement officer position under
11 investigation or in lieu of termination, and has
12 not been dismissed from a law enforcement offi-
13 cer position;

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

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

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

23 “(C) is not currently under investigation,
24 has not been found to have engaged in criminal
25 activity or serious misconduct, has not resigned

1 from a law enforcement officer position under
2 investigation or in lieu of termination, and has
3 not been dismissed from a law enforcement offi-
4 cer position; and

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

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

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

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

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

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

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

4 “(c) **TERMINATION OF WAIVER REQUIREMENT;**
5 **SNAP-BACK.**—The requirement to issue a waiver under
6 subsection (b) shall terminate if the Commissioner of U.S.
7 Customs and Border Protection (CBP) certifies to the
8 Committee on Homeland Security of the House of Rep-
9 resentatives and the Committee on Homeland Security
10 and Governmental Affairs of the Senate that CBP has met
11 all requirements pursuant to section 107 of the Secure the
12 Border Act of 2023 relating to personnel levels. If at any
13 time after such certification personnel levels fall below
14 such requirements, the Commissioner shall waive the ap-
15 plication of subsection (a)(1) until such time as the Com-
16 missioner re-certifies to such Committees that CBP has
17 so met all such requirements.”.

18 (b) **SUPPLEMENTAL COMMISSIONER AUTHORITY;**
19 **REPORTING; DEFINITIONS.**—The Anti-Border Corruption
20 Act of 2010 is amended by adding at the end the following
21 new sections:

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

23 “(a) **NONEXEMPTION.**—An individual who receives a
24 waiver under section 3(b) is not exempt from any other
25 hiring requirements relating to suitability for employment

1 and eligibility to hold a national security designated posi-
2 tion, as determined by the Commissioner of U.S. Customs
3 and Border Protection.

4 “(b) BACKGROUND INVESTIGATIONS.—An individual
5 who receives a waiver under section 3(b) who holds a cur-
6 rent Tier 4 background investigation shall be subject to
7 a Tier 5 background investigation.

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

18 **“SEC. 6. REPORTING.**

19 “(a) ANNUAL REPORT.—Not later than one year
20 after the date of the enactment of this section and annu-
21 ally thereafter while the waiver authority under section
22 3(b) is in effect, the Commissioner of U.S. Customs and
23 Border Protection shall submit to Congress a report that
24 includes, with respect to each such reporting period, the
25 following:

1 “(1) Information relating to the number of
2 waivers granted under such section 3(b).

3 “(2) Information relating to the percentage of
4 applicants who were hired after receiving such a
5 waiver.

6 “(3) Information relating to the number of in-
7 stances that a polygraph was administered to an ap-
8 plicant who initially received such a waiver and the
9 results of such polygraph.

10 “(4) An assessment of the current impact of
11 such waiver authority on filling law enforcement po-
12 sitions at U.S. Customs and Border Protection.

13 “(5) An identification of additional authorities
14 needed by U.S. Customs and Border Protection to
15 better utilize such waiver authority for its intended
16 goals.

17 “(b) ADDITIONAL INFORMATION.—The first report
18 submitted under subsection (a) shall include the following:

19 “(1) An analysis of other methods of employ-
20 ment suitability tests that detect deception and could
21 be used in conjunction with traditional background
22 investigations to evaluate potential applicants or em-
23 ployees for suitability for employment or continued
24 employment, as the case may be.

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

6 **“SEC. 7. DEFINITIONS.**

7 “In this Act:

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

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

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

19 “(B) a punitive discharge is, or would be,
20 authorized for the same or a closely related of-
21 fense under the Manual for Court-Martial, as
22 pursuant to Army Regulation 635–200, chapter
23 14–12.

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

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

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

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

12 **SEC. 109. ESTABLISHMENT OF WORKLOAD STAFFING MOD-**
13 **ELS FOR U.S. BORDER PATROL AND AIR AND**
14 **MARINE OPERATIONS OF CBP.**

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

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

22 (2) Air and Marine Operations of CBP.

23 (b) RESPONSIBILITIES OF THE COMMISSIONER.—
24 Subsection (c) of section 411 of the Homeland Security
25 Act of 2002 (6 U.S.C. 211), is amended—

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

3 (2) by inserting after paragraph (17) the fol-
4 lowing new paragraphs:

5 “(18) implement a staffing model for the U.S.
6 Border Patrol, Air and Marine Operations, and the
7 Office of Field Operations that includes consider-
8 ation for essential frontline operator activities and
9 functions, variations in operating environments,
10 present and planned infrastructure, present and
11 planned technology, and required operations support
12 levels to enable such entities to manage and assign
13 personnel of such entities to ensure field and sup-
14 port posts possess adequate resources to carry out
15 duties specified in this section;

16 “(19) develop standard operating procedures
17 for a workforce tracking system within the U.S.
18 Border Patrol, Air and Marine Operations, and the
19 Office of Field Operations, train the workforce of
20 each of such entities on the use, capabilities, and
21 purpose of such system, and implement internal con-
22 trols to ensure timely and accurate scheduling and
23 reporting of actual completed work hours and activi-
24 ties;”.

25 (c) REPORT.—

1 (1) IN GENERAL.—Not later than one year
2 after the date of the enactment of this Act with re-
3 spect to subsection (a) and paragraphs (18) and
4 (19) of section 411(c) of the Homeland Security Act
5 of 2002 (as amended by subsection (b)), and annu-
6 ally thereafter with respect to such paragraphs (18)
7 and (19), the Secretary shall submit to the appro-
8 priate congressional committees a report that in-
9 cludes a status update on the following:

10 (A) The implementation of such subsection
11 (a) and such paragraphs (18) and (19).

12 (B) Each relevant workload staffing model.

13 (2) DATA SOURCES AND METHODOLOGY RE-
14 QUIRED.—Each report required under paragraph (1)
15 shall include information relating to the data sources
16 and methodology used to generate each relevant
17 staffing model.

18 (d) INSPECTOR GENERAL REVIEW.—Not later than
19 90 days after the Commissioner develops the workload
20 staffing models pursuant to subsection (a), the Inspector
21 General of the Department shall review such models and
22 provide feedback to the Secretary and the appropriate con-
23 gressional committees with respect to the degree to which
24 such models are responsive to the recommendations of the
25 Inspector General, including the following:

1 (1) Recommendations from the Inspector Gen-
2 eral’s February 2019 audit.

3 (2) Any further recommendations to improve
4 such models.

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

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

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

12 **SEC. 110. OPERATION STONEGARDEN.**

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

16 **“SEC. 2010. OPERATION STONEGARDEN.**

17 “(a) ESTABLISHMENT.—There is established in the
18 Department a program to be known as ‘Operation
19 Stonegarden’, under which the Secretary, acting through
20 the Administrator, shall make grants to eligible law en-
21 forcement agencies, through State administrative agen-
22 cies, to enhance border security in accordance with this
23 section.

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

4 “(1) be located in—

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

6 or

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

9 “(2) be involved in an active, ongoing, U.S.
10 Customs and Border Protection operation coordi-
11 nated through a U.S. Border Patrol sector office;
12 and

13 “(3) have an agreement in place with U.S. Im-
14 migration and Customs Enforcement to support en-
15 forcement operations.

16 “(c) PERMITTED USES.—A recipient of a grant
17 under this section may use such grant for costs associated
18 with the following:

19 “(1) Equipment, including maintenance and
20 sustainment.

21 “(2) Personnel, including overtime and backfill,
22 in support of enhanced border law enforcement ac-
23 tivities.

24 “(3) Any activity permitted for Operation
25 Stonegarden under the most recent fiscal year De-

1 partment of Homeland Security’s Homeland Secu-
2 rity Grant Program Notice of Funding Opportunity.

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

6 “(e) NOTIFICATION.—Upon denial of a grant to a law
7 enforcement agency, the Administrator shall provide writ-
8 ten notice to the Committee on Homeland Security of the
9 House of Representatives and the Committee on Home-
10 land Security and Governmental Affairs of the Senate, in-
11 cluding the reasoning for such denial.

12 “(f) REPORT.—For each of fiscal years 2024 through
13 2028 the Administrator shall submit to the Committee on
14 Homeland Security of the House of Representatives and
15 the Committee on Homeland Security and Governmental
16 Affairs of the Senate a report that contains—

17 “(1) information on the expenditure of grants
18 made under this section by each grant recipient; and

19 “(2) recommendations for other uses of such
20 grants to further support eligible law enforcement
21 agencies.

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

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

4 “(a) GRANTS AUTHORIZED.—The Secretary, through
5 the Administrator, may award grants under sections 2003,
6 2004, 2009, and 2010 to State, local, and Tribal govern-
7 ments, as appropriate.”.

8 (c) CLERICAL AMENDMENT.—The table of contents
9 in section 1(b) of the Homeland Security Act of 2002 is
10 amended by inserting after the item relating to section
11 2009 the following new item:

“Sec. 2010. Operation Stonegarden.”.

12 **SEC. 111. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

13 (a) AIR AND MARINE OPERATIONS FLIGHT
14 HOURS.—Not later than 120 days after the date of the
15 enactment of this Act, the Secretary shall ensure that not
16 fewer than 110,000 annual flight hours are carried out
17 by Air and Marine Operations of CBP.

18 (b) UNMANNED AIRCRAFT SYSTEMS.—The Sec-
19 retary, after coordination with the Administrator of the
20 Federal Aviation Administration, shall ensure that Air and
21 Marine Operations operate unmanned aircraft systems on
22 the southern border of the United States for not less than
23 24 hours per day.

24 (c) PRIMARY MISSIONS.—The Commissioner shall
25 ensure the following:

1 (1) The primary missions for Air and Marine
2 Operations are to directly support the following:

3 (A) U.S. Border Patrol activities along the
4 borders of the United States.

5 (B) Joint Interagency Task Force South
6 and Joint Task Force East operations in the
7 transit zone.

8 (2) The Executive Assistant Commissioner of
9 Air and Marine Operations assigns the greatest pri-
10 ority to support missions specified in paragraph (1).

11 (d) HIGH DEMAND FLIGHT HOUR REQUIRE-
12 MENTS.—The Commissioner shall—

13 (1) ensure that U.S. Border Patrol Sector
14 Chiefs identify air support mission-critical hours;
15 and

16 (2) direct Air and Marine Operations to sup-
17 port requests from such Sector Chiefs as a compo-
18 nent of the primary mission of Air and Marine Op-
19 erations in accordance with subsection (c)(1)(A).

20 (e) CONTRACT AIR SUPPORT AUTHORIZATIONS.—
21 The Commissioner shall contract for air support mission-
22 critical hours to meet the requests for such hours, as iden-
23 tified pursuant to subsection (d).

24 (f) SMALL UNMANNED AIRCRAFT SYSTEMS.—

1 (1) IN GENERAL.—The Chief of the U.S. Bor-
2 der Patrol shall be the executive agent with respect
3 to the use of small unmanned aircraft by CBP for
4 the purposes of the following:

5 (A) Meeting the unmet flight hour oper-
6 ational requirements of the U.S. Border Patrol.

7 (B) Achieving situational awareness and
8 operational control of the borders of the United
9 States.

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

13 (A) flight operations with the Adminis-
14 trator of the Federal Aviation Administration to
15 ensure the safe and efficient operation of the
16 national airspace system; and

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

20 (i) ensure the safety of other CBP
21 aircraft flying in the vicinity of small un-
22 manned aircraft operated by the U.S. Bor-
23 der Patrol; and

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

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

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

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

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

13 “(C) carry out the small unmanned air-
14 craft (as such term is defined in section 44801
15 of title 49, United States Code) requirements
16 pursuant to subsection (f) of section 111 of the
17 Secure the Border Act of 2023; and”.

18 (g) SAVINGS CLAUSE.—Nothing in this section may
19 be construed as conferring, transferring, or delegating to
20 the Secretary, the Commissioner, the Executive Assistant
21 Commissioner for Air and Marine Operations of CBP, or
22 the Chief of the U.S. Border Patrol any authority of the
23 Secretary of Transportation or the Administrator of the
24 Federal Aviation Administration relating to the use of air-
25 space or aviation safety.

1 (h) DEFINITIONS.—In this section:

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

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

12 **SEC. 112. ERADICATION OF CARRIZO CANE AND SALT**
13 **CEDAR.**

14 (a) IN GENERAL.—Not later than 30 days after the
15 date of the enactment of this Act, the Secretary, in coordi-
16 nation with the heads of relevant Federal, State, and local
17 agencies, shall hire contractors to begin eradicating the
18 carrizo cane plant and any salt cedar along the Rio
19 Grande River that impedes border security operations.
20 Such eradication shall be completed—

21 (1) by not later than September 30, 2027, ex-
22 cept for required maintenance; and

23 (2) in the most expeditious and cost-effective
24 manner possible to maintain clear fields of view.

1 (b) APPLICATION.—The waiver authority under sub-
2 section (e) of section 102 of the Illegal Immigration Re-
3 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
4 1103 note), as amended by section 103 of this division,
5 shall apply to activities carried out pursuant to subsection
6 (a).

7 (c) REPORT.—Not later than 180 days after the date
8 of the enactment of this Act, the Secretary shall submit
9 to the Committee on Homeland Security of the House of
10 Representatives and the Committee on Homeland Security
11 and Governmental Affairs of the Senate a strategic plan
12 to eradicate all carrizo cane plant and salt cedar along
13 the Rio Grande River that impedes border security oper-
14 ations by not later than September 30, 2027.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated \$7,000,000 for each of fis-
17 cal years 2024 through 2028 to the Secretary to carry
18 out this subsection.

19 **SEC. 113. BORDER PATROL STRATEGIC PLAN.**

20 (a) IN GENERAL.—Not later than one year after the
21 date of the enactment of this Act and biennially thereafter,
22 the Commissioner, acting through the Chief of the U.S.
23 Border Patrol, shall issue a Border Patrol Strategic Plan
24 (referred to in this section as the “plan”) to enhance the
25 security of the borders of the United States.

1 (b) ELEMENTS.—The plan shall include the fol-
2 lowing:

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

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

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

16 (A) increase situational awareness, includ-
17 ing—

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

23 (ii) the use of manned aircraft and
24 unmanned aircraft;

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

4 (C) detect, interdict, and disrupt between
5 ports of entry aliens unlawfully present in the
6 United States;

7 (D) detect, interdict, and disrupt human
8 smuggling, human trafficking, drug trafficking,
9 and other illicit cross-border activity;

10 (E) focus intelligence collection to disrupt
11 transnational criminal organizations outside of
12 the international and maritime borders of the
13 United States; and

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

17 (4) Information relating to initiatives of the De-
18 partment with respect to operational coordination,
19 including any relevant task forces of the Depart-
20 ment.

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

24 (6) A description of cooperative agreements re-
25 lating to information sharing with State, local, Trib-

1 al, territorial, and other Federal law enforcement
2 agencies that have jurisdiction on the borders of the
3 United States.

4 (7) Information relating to border security in-
5 formation received from the following:

6 (A) State, local, Tribal, territorial, and
7 other Federal law enforcement agencies that
8 have jurisdiction on the borders of the United
9 States or in the maritime environment.

10 (B) Border community stakeholders, in-
11 cluding representatives from the following:

12 (i) Border agricultural and ranching
13 organizations.

14 (ii) Business and civic organizations.

15 (iii) Hospitals and rural clinics within
16 150 miles of the borders of the United
17 States.

18 (iv) Victims of crime committed by
19 aliens unlawfully present in the United
20 States.

21 (v) Victims impacted by drugs,
22 transnational criminal organizations, car-
23 tels, gangs, or other criminal activity.

24 (vi) Farmers, ranchers, and property
25 owners along the border.

1 (vii) Other individuals negatively im-
2 pacted by illegal immigration.

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

6 (9) A prioritized list of Department research
7 and development objectives to enhance the security
8 of the borders of the United States.

9 (10) An assessment of training programs, in-
10 cluding such programs relating to the following:

11 (A) Identifying and detecting fraudulent
12 documents.

13 (B) Understanding the scope of CBP en-
14 forcement authorities and appropriate use of
15 force policies.

16 (C) Screening, identifying, and addressing
17 vulnerable populations, such as children and
18 victims of human trafficking.

19 **SEC. 114. U.S. CUSTOMS AND BORDER PROTECTION SPIR-**
20 **ITUAL READINESS.**

21 Not later than one year after the enactment of this
22 Act and annually thereafter for five years, the Commis-
23 sioner shall submit to the Committee on Homeland Secu-
24 rity of the House of Representatives and the Committee
25 on Homeland Security and Governmental Affairs of the

1 Senate a report on the availability and usage of the assist-
2 ance of chaplains, prayer groups, houses of worship, and
3 other spiritual resources for members of CBP who identify
4 as religiously affiliated and have attempted suicide, have
5 suicidal ideation, or are at risk of suicide, and metrics on
6 the impact such resources have in assisting religiously af-
7 filiated members who have access to and utilize such re-
8 sources compared to religiously affiliated members who do
9 not.

10 **SEC. 115. RESTRICTIONS ON FUNDING.**

11 (a) ARRIVING ALIENS.—No funds are authorized to
12 be appropriated to the Department to process the entry
13 into the United States of aliens arriving in between ports
14 of entry.

15 (b) RESTRICTION ON NONGOVERNMENTAL ORGANI-
16 ZATION SUPPORT FOR UNLAWFUL ACTIVITY.—No funds
17 are authorized to be appropriated to the Department for
18 disbursement to any nongovernmental organization that
19 facilitates or encourages unlawful activity, including un-
20 lawful entry, human trafficking, human smuggling, drug
21 trafficking, and drug smuggling.

22 (c) RESTRICTION ON NONGOVERNMENTAL ORGANI-
23 ZATION FACILITATION OF ILLEGAL IMMIGRATION.—No
24 funds are authorized to be appropriated to the Depart-
25 ment for disbursement to any nongovernmental organiza-

1 tion to provide, or facilitate the provision of, transpor-
2 tation, lodging, or immigration legal services to inadmis-
3 sible aliens who enter the United States after the date of
4 the enactment of this Act.

5 **SEC. 116. COLLECTION OF DNA AND BIOMETRIC INFORMA-**
6 **TION AT THE BORDER.**

7 Not later than 14 days after the date of the enact-
8 ment of this Act, the Secretary shall ensure and certify
9 to the Committee on Homeland Security of the House of
10 Representatives and the Committee on Homeland Security
11 and Governmental Affairs of the Senate that CBP is fully
12 compliant with Federal DNA and biometric collection re-
13 quirements at United States land borders.

14 **SEC. 117. ERADICATION OF NARCOTIC DRUGS AND FORMU-**
15 **LATING EFFECTIVE NEW TOOLS TO ADDRESS**
16 **YEARLY LOSSES OF LIFE; ENSURING TIMELY**
17 **UPDATES TO U.S. CUSTOMS AND BORDER**
18 **PROTECTION FIELD MANUALS.**

19 (a) IN GENERAL.—Not later than 90 days after the
20 date of the enactment of this Act, and not less frequently
21 than triennially thereafter, the Commissioner of U.S. Cus-
22 toms and Border Protection shall review and update, as
23 necessary, the current policies and manuals of the Office
24 of Field Operations related to inspections at ports of
25 entry, and the U.S. Border Patrol related to inspections

1 between ports of entry, to ensure the uniform implementa-
2 tion of inspection practices that will effectively respond to
3 technological and methodological changes designed to dis-
4 guise unlawful activity, such as the smuggling of drugs
5 and humans, along the border.

6 (b) **REPORTING REQUIREMENT.**—Not later than 90
7 days after each update required under subsection (a), the
8 Commissioner of U.S. Customs and Border Protection
9 shall submit to the Committee on Homeland Security and
10 the Committee on the Judiciary of the House of Rep-
11 resentatives and the Committee on Homeland Security
12 and Governmental Affairs and the Committee on the Judi-
13 ciary of the Senate a report that summarizes any policy
14 and manual changes pursuant to subsection (a).

15 **SEC. 118. PUBLICATION BY U.S. CUSTOMS AND BORDER**
16 **PROTECTION OF OPERATIONAL STATISTICS.**

17 (a) **IN GENERAL.**—Not later than the seventh day of
18 each month beginning with the second full month after
19 the date of the enactment of this Act, the Commissioner
20 of U.S. Customs and Border Protection shall publish on
21 a publicly available website of the Department of Home-
22 land Security information relating to the total number of
23 alien encounters and nationalities, unique alien encounters
24 and nationalities, gang affiliated apprehensions and na-
25 tionalities, drug seizures, alien encounters included in the

1 terrorist screening database and nationalities, arrests of
2 criminal aliens or individuals wanted by law enforcement
3 and nationalities, known got aways, encounters with de-
4 ceased aliens, and all other related or associated statistics
5 recorded by U.S. Customs and Border Protection during
6 the immediately preceding month. Each such publication
7 shall include the following:

8 (1) The aggregate such number, and such num-
9 ber disaggregated by geographic regions, of such re-
10 cordings and encounters, including specifications re-
11 lating to whether such recordings and encounters
12 were at the southwest, northern, or maritime border.

13 (2) An identification of the Office of Field Op-
14 erations field office, U.S. Border Patrol sector, or
15 Air and Marine Operations branch making each re-
16 cording or encounter.

17 (3) Information relating to whether each re-
18 cording or encounter of an alien was of a single
19 adult, an unaccompanied alien child, or an individual
20 in a family unit.

21 (4) Information relating to the processing dis-
22 position of each alien recording or encounter.

23 (5) Information relating to the nationality of
24 each alien who is the subject of each recording or
25 encounter.

1 (6) The total number of individuals included in
2 the terrorist screening database (as such term is de-
3 fined in section 2101 of the Homeland Security Act
4 of 2002 (6 U.S.C. 621)) who have repeatedly at-
5 tempted to cross unlawfully into the United States.

6 (7) The total number of individuals included in
7 the terrorist screening database who have been ap-
8 prehended, including information relating to whether
9 such individuals were released into the United States
10 or removed.

11 (b) EXCEPTIONS.—If the Commissioner of U.S. Cus-
12 toms and Border Protection in any month does not publish
13 the information required under subsection (a), or does not
14 publish such information by the date specified in such sub-
15 section, the Commissioner shall brief the Committee on
16 Homeland Security of the House of Representatives and
17 the Committee on Homeland Security and Governmental
18 Affairs of the Senate regarding the reason relating there-
19 to, as the case may be, by not later than the date that
20 is two business days after the tenth day of such month.

21 (c) DEFINITIONS.—In this section:

22 (1) ALIEN ENCOUNTERS.—The term “alien en-
23 counters” means aliens apprehended, determined in-
24 admissible, or processed for removal by U.S. Cus-
25 toms and Border Protection.

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

5 (3) TERRORIST SCREENING DATABASE.—The
6 term “terrorist screening database” has the meaning
7 given such term in section 2101 of the Homeland
8 Security Act of 2002 (6 U.S.C. 621).

9 (4) UNACCOMPANIED ALIEN CHILD.—The term
10 “unaccompanied alien child” has the meaning given
11 such term in section 462(g) of the Homeland Secu-
12 rity Act of 2002 (6 U.S.C. 279(g)).

13 **SEC. 119. ALIEN CRIMINAL BACKGROUND CHECKS.**

14 (a) IN GENERAL.—Not later than seven days after
15 the date of the enactment of this Act, the Commissioner
16 shall certify to the Committee on Homeland Security and
17 the Committee on the Judiciary of the House of Rep-
18 resentatives and the Committee on Homeland Security
19 and Governmental Affairs and the Committee on the Judi-
20 ciary of the Senate that CBP has real-time access to the
21 criminal history databases of all countries of origin and
22 transit for aliens encountered by CBP to perform criminal
23 history background checks for such aliens.

24 (b) STANDARDS.—The certification required under
25 subsection (a) shall also include a determination whether

1 the criminal history databases of a country are accurate,
2 up to date, digitized, searchable, and otherwise meet the
3 standards of the Federal Bureau of Investigation for
4 criminal history databases maintained by State and local
5 governments.

6 (c) CERTIFICATION.—The Secretary shall annually
7 submit to the Committee on Homeland Security and the
8 Committee on the Judiciary of the House of Representa-
9 tives and the Committee on Homeland Security and Gov-
10 ernmental Affairs and the Committee on the Judiciary of
11 the Senate a certification that each database referred to
12 in subsection (b) which the Secretary accessed or sought
13 to access pursuant to this section met the standards de-
14 scribed in subsection (b).

15 **SEC. 120. PROHIBITED IDENTIFICATION DOCUMENTS AT**
16 **AIRPORT SECURITY CHECKPOINTS; NOTIFI-**
17 **CATION TO IMMIGRATION AGENCIES.**

18 (a) IN GENERAL.—The Administrator may not ac-
19 cept as valid proof of identification a prohibited identifica-
20 tion document at an airport security checkpoint.

21 (b) NOTIFICATION TO IMMIGRATION AGENCIES.—If
22 an individual presents a prohibited identification docu-
23 ment to an officer of the Transportation Security Admin-
24 istration at an airport security checkpoint, the Adminis-
25 trator shall promptly notify the Director of U.S. Immigra-

1 tion and Customs Enforcement, the Director of U.S. Cus-
2 toms and Border Protection, and the head of the appro-
3 priate local law enforcement agency to determine whether
4 the individual is in violation of any term of release from
5 the custody of any such agency.

6 (c) ENTRY INTO STERILE AREAS.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), if an individual is found to be in violation
9 of any term of release under subsection (b), the Ad-
10 ministrator may not permit such individual to enter
11 a sterile area.

12 (2) EXCEPTION.—An individual presenting a
13 prohibited identification document under this section
14 may enter a sterile area if the individual—

15 (A) is leaving the United States for the
16 purposes of removal or deportation; or

17 (B) presents a covered identification docu-
18 ment.

19 (d) COLLECTION OF BIOMETRIC INFORMATION FROM
20 CERTAIN INDIVIDUALS SEEKING ENTRY INTO THE STER-
21 ILE AREA OF AN AIRPORT.—Beginning not later than 120
22 days after the date of the enactment of this Act, the Ad-
23 ministrator shall collect biometric information from an in-
24 dividual described in subsection (e) prior to authorizing
25 such individual to enter into a sterile area.

1 (e) INDIVIDUAL DESCRIBED.—An individual de-
2 scribed in this subsection is an individual who—

3 (1) is seeking entry into the sterile area of an
4 airport;

5 (2) does not present a covered identification
6 document; and

7 (3) the Administrator cannot verify is a na-
8 tional of the United States.

9 (f) PARTICIPATION IN IDENT.—Beginning not later
10 than 120 days after the date of the enactment of this Act,
11 the Administrator, in coordination with the Secretary,
12 shall submit biometric data collected under this section to
13 the Automated Biometric Identification System (IDENT).

14 (g) DEFINITIONS.—In this section:

15 (1) ADMINISTRATOR.—The term “Adminis-
16 trator” means the Administrator of the Transpor-
17 tation Security Administration.

18 (2) BIOMETRIC INFORMATION.—The term “bio-
19 metric information” means any of the following:

20 (A) A fingerprint.

21 (B) A palm print.

22 (C) A photograph, including—

23 (i) a photograph of an individual’s
24 face for use with facial recognition tech-
25 nology; and

1 (ii) a photograph of any physical or
2 anatomical feature, such as a scar, skin
3 mark, or tattoo.

4 (D) A signature.

5 (E) A voice print.

6 (F) An iris image.

7 (3) COVERED IDENTIFICATION DOCUMENT.—

8 The term “covered identification document” means
9 any of the following, if the document is valid and
10 unexpired:

11 (A) A United States passport or passport
12 card.

13 (B) A biometrically secure card issued by
14 a trusted traveler program of the Department
15 of Homeland Security, including—

16 (i) Global Entry;

17 (ii) Nexus;

18 (iii) Secure Electronic Network for
19 Travelers Rapid Inspection (SENTRI);
20 and

21 (iv) Free and Secure Trade (FAST).

22 (C) An identification card issued by the
23 Department of Defense, including such a card
24 issued to a dependent.

1 (D) Any document required for admission
2 to the United States under section 211(a) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1181(a)).

5 (E) An enhanced driver's license issued by
6 a State.

7 (F) A photo identification card issued by a
8 federally recognized Indian Tribe.

9 (G) A personal identity verification creden-
10 tial issued in accordance with Homeland Secu-
11 rity Presidential Directive 12.

12 (H) A driver's license issued by a province
13 of Canada.

14 (I) A Secure Certificate of Indian Status
15 issued by the Government of Canada.

16 (J) A Transportation Worker Identifica-
17 tion Credential.

18 (K) A Merchant Mariner Credential issued
19 by the Coast Guard.

20 (L) A Veteran Health Identification Card
21 issued by the Department of Veterans Affairs.

22 (M) Any other document the Administrator
23 determines, pursuant to a rule making in ac-
24 cordance with section 553 of title 5, United
25 States Code, will satisfy the identity verification

1 procedures of the Transportation Security Ad-
2 ministration.

3 (4) IMMIGRATION LAWS.—The term “immigra-
4 tion laws” has the meaning given that term in sec-
5 tion 101 of the Immigration and Nationality Act (8
6 U.S.C. 1101).

7 (5) PROHIBITED IDENTIFICATION DOCU-
8 MENT.—The term “prohibited identification docu-
9 ment” means any of the following (or any applicable
10 successor form):

11 (A) U.S. Immigration and Customs En-
12 forcement Form I–200, Warrant for Arrest of
13 Alien.

14 (B) U.S. Immigration and Customs En-
15 forcement Form I–205, Warrant of Removal/
16 Deportation.

17 (C) U.S. Immigration and Customs En-
18 forcement Form I–220A, Order of Release on
19 Recognizance.

20 (D) U.S. Immigration and Customs En-
21 forcement Form I–220B, Order of Supervision.

22 (E) Department of Homeland Security
23 Form I–862, Notice to Appear.

1 (F) U.S. Customs and Border Protection
2 Form I-94, Arrival/Departure Record (includ-
3 ing a print-out of an electronic record).

4 (G) Department of Homeland Security
5 Form I-385, Notice to Report.

6 (H) Any document that directs an indi-
7 vidual to report to the Department of Home-
8 land Security.

9 (I) Any Department of Homeland Security
10 work authorization or employment verification
11 document.

12 (6) STERILE AREA.—The term “sterile area”
13 has the meaning given that term in section 1540.5
14 of title 49, Code of Federal Regulations, or any suc-
15 cessor regulation.

16 **SEC. 121. PROHIBITION AGAINST ANY COVID-19 VACCINE**
17 **MANDATE OR ADVERSE ACTION AGAINST**
18 **DHS EMPLOYEES.**

19 (a) LIMITATION ON IMPOSITION OF NEW MAN-
20 DATE.—The Secretary may not issue any COVID-19 vac-
21 cine mandate unless Congress expressly authorizes such
22 a mandate.

23 (b) PROHIBITION ON ADVERSE ACTION.—The Sec-
24 retary may not take any adverse action against a Depart-

1 ment employee based solely on the refusal of such em-
2 ployee to receive a vaccine for COVID–19.

3 (c) REPORT.—Not later than 90 days after the date
4 of the enactment of this Act, the Secretary shall report
5 to the Committee on Homeland Security of the House of
6 Representatives and the Committee on Homeland Security
7 and Governmental Affairs of the Senate on the following:

8 (1) The number of Department employees who
9 were terminated or resigned due to the COVID–19
10 vaccine mandate.

11 (2) An estimate of the cost to reinstate such
12 employees.

13 (3) How the Department would effectuate rein-
14 statement of such employees.

15 (d) RETENTION AND DEVELOPMENT OF
16 UNVACCINATED EMPLOYEES.—The Secretary shall make
17 every effort to retain Department employees who are not
18 vaccinated against COVID–19 and provide such employees
19 with professional development, promotion and leadership
20 opportunities, and consideration equal to that of their
21 peers.

22 **SEC. 122. CBP ONE APP LIMITATION.**

23 (a) LIMITATION.—The Department may use the CBP
24 One Mobile Application or any other similar program, ap-

1 plication, internet-based portal, website, device, or initia-
2 tive only for inspection of perishable cargo.

3 (b) REPORT.—Not later than 60 days after the date
4 of the enactment of this Act, the Commissioner shall re-
5 port to the Committee on Homeland Security of the House
6 of Representatives and the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Senate the date on
8 which CBP began using CBP One to allow aliens to sched-
9 ule interviews at land ports of entry, how many aliens have
10 scheduled interviews at land ports of entry using CBP
11 One, the nationalities of such aliens, and the stated final
12 destinations of such aliens within the United States, if
13 any.

14 **SEC. 123. REPORT ON MEXICAN DRUG CARTELS.**

15 Not later than 60 days after the date of the enact-
16 ment of this Act, Congress shall commission a report that
17 contains the following:

18 (1) A national strategy to address Mexican
19 drug cartels, and a determination regarding whether
20 there should be a designation established to address
21 such cartels.

22 (2) Information relating to actions by such car-
23 tels that causes harm to the United States.

1 **SEC. 124. GAO STUDY ON COSTS INCURRED BY STATES TO**
2 **SECURE THE SOUTHWEST BORDER.**

3 (a) IN GENERAL.—Not later than 90 days after the
4 date of the enactment of this Act, the Comptroller General
5 of the United States shall conduct a study to examine the
6 costs incurred by individual States as a result of actions
7 taken by such States in support of the Federal mission
8 to secure the southwest border, and the feasibility of a
9 program to reimburse such States for such costs.

10 (b) CONTENTS.—The study required under sub-
11 section (a) shall include consideration of the following:

12 (1) Actions taken by the Department of Home-
13 land Security that have contributed to costs de-
14 scribed in such subsection incurred by States to se-
15 cure the border in the absence of Federal action, in-
16 cluding the termination of the Migrant Protection
17 Protocols and cancellation of border wall construc-
18 tion.

19 (2) Actions taken by individual States along the
20 southwest border to secure their borders, and the
21 costs associated with such actions.

22 (3) The feasibility of a program within the De-
23 partment of Homeland Security to reimburse States
24 for the costs incurred in support of the Federal mis-
25 sion to secure the southwest border.

1 **SEC. 125. REPORT BY INSPECTOR GENERAL OF THE DE-**
2 **PARTMENT OF HOMELAND SECURITY.**

3 (a) REPORT.—Not later than one year after the date
4 of the enactment of this Act and annually thereafter for
5 five years, the Inspector General of the Department of
6 Homeland Security shall submit to the Committee on
7 Homeland Security of the House of Representatives and
8 the Committee on Homeland Security and Governmental
9 Affairs of the Senate a report examining the economic and
10 security impact of mass migration to municipalities and
11 States along the southwest border. Such report shall in-
12 clude information regarding costs incurred by the fol-
13 lowing:

14 (1) State and local law enforcement to secure
15 the southwest border.

16 (2) Public school districts to educate students
17 who are aliens unlawfully present in the United
18 States.

19 (3) Healthcare providers to provide care to
20 aliens unlawfully present in the United States who
21 have not paid for such care.

22 (4) Farmers and ranchers due to migration im-
23 pacts to their properties.

24 (b) CONSULTATION.—To produce the report required
25 under subsection (a), the Inspector General of the Depart-
26 ment of Homeland Security shall consult with the individ-

1 uals and representatives of the entities described in para-
2 graphs (1) through (4) of such subsection.

3 **SEC. 126. OFFSETTING AUTHORIZATIONS OF APPROPRIA-**
4 **TIONS.**

5 (a) OFFICE OF THE SECRETARY AND EMERGENCY
6 MANAGEMENT.—No funds are authorized to be appro-
7 priated for the Alternatives to Detention Case Manage-
8 ment Pilot Program or the Office of the Immigration De-
9 tention Ombudsman for the Office of the Secretary and
10 Emergency Management of the Department of Homeland
11 Security.

12 (b) MANAGEMENT DIRECTORATE.—No funds are au-
13 thorized to be appropriated for electric vehicles or St. Eliz-
14 abeths campus construction for the Management Direc-
15 torate of the Department of Homeland Security.

16 (c) INTELLIGENCE, ANALYSIS, AND SITUATIONAL
17 AWARENESS.—There is authorized to be appropriated
18 \$216,000,000 for Intelligence, Analysis, and Situational
19 Awareness of the Department of Homeland Security.

20 (d) U.S. CUSTOMS AND BORDER PROTECTION.—No
21 funds are authorized to be appropriated for the Shelter
22 Services Program for U.S. Customs and Border Protec-
23 tion.

1 **SEC. 127. REPORT TO CONGRESS ON FOREIGN TERRORIST**
2 **ORGANIZATIONS.**

3 (a) IN GENERAL.—Not later than 90 days after the
4 date of the enactment of this Act and annually thereafter
5 for five years, the Secretary of Homeland Security shall
6 submit to the Committee on Homeland Security of the
7 House of Representatives and the Committee on Home-
8 land Security and Governmental Affairs of the Senate an
9 assessment of foreign terrorist organizations attempting
10 to move their members or affiliates into the United States
11 through the southern, northern, or maritime border.

12 (b) DEFINITION.—In this section, the term “foreign
13 terrorist organization” means an organization described in
14 section 219 of the Immigration and Nationality Act (8
15 U.S.C. 1189).

16 **SEC. 128. ASSESSMENT BY INSPECTOR GENERAL OF THE**
17 **DEPARTMENT OF HOMELAND SECURITY ON**
18 **THE MITIGATION OF UNMANNED AIRCRAFT**
19 **SYSTEMS AT THE SOUTHWEST BORDER.**

20 Not later than 90 days after the date of the enact-
21 ment of this Act, the Inspector General of the Department
22 of Homeland Security shall submit to the Committee on
23 Homeland Security of the House of Representatives and
24 the Committee on Homeland Security and Governmental
25 Affairs of the Senate an assessment of U.S. Customs and
26 Border Protection’s ability to mitigate unmanned aircraft

1 systems at the southwest border. Such assessment shall
2 include information regarding any intervention between
3 January 1, 2021, and the date of the enactment of this
4 Act, by any Federal agency affecting in any manner U.S.
5 Customs and Border Protection’s authority to so mitigate
6 such systems.

7 **DIVISION D—IMMIGRATION EN-**
8 **FORCEMENT AND FOREIGN**
9 **AFFAIRS**
10 **TITLE I—ASYLUM REFORM AND**
11 **BORDER PROTECTION**

12 **SEC. 101. SAFE THIRD COUNTRY.**

13 Section 208(a)(2)(A) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

15 (1) by striking “if the Attorney General deter-
16 mines” and inserting “if the Attorney General or the
17 Secretary of Homeland Security determines—”;

18 (2) by striking “that the alien may be removed”
19 and inserting the following:

20 “(i) that the alien may be removed”;

21 (3) by striking “, pursuant to a bilateral or
22 multilateral agreement, to” and inserting “to”;

23 (4) by inserting “or the Secretary, on a case by
24 case basis,” before “finds that”;

1 (5) by striking the period at the end and insert-
2 ing “; or”; and

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

4 “(ii) that the alien entered, attempted to enter,
5 or arrived in the United States after transiting
6 through at least one country outside the alien’s
7 country of citizenship, nationality, or last lawful ha-
8 bitual residence en route to the United States, un-
9 less—

10 “(I) the alien demonstrates that he or she
11 applied for protection from persecution or tor-
12 ture in at least one country outside the alien’s
13 country of citizenship, nationality, or last lawful
14 habitual residence through which the alien
15 transited en route to the United States, and the
16 alien received a final judgment denying the
17 alien protection in each country;

18 “(II) the alien demonstrates that he or she
19 was a victim of a severe form of trafficking in
20 which a commercial sex act was induced by
21 force, fraud, or coercion, or in which the person
22 induced to perform such act was under the age
23 of 18 years; or in which the trafficking included
24 the recruitment, harboring, transportation, pro-
25 vision, or obtaining of a person for labor or

1 services through the use of force, fraud, or coer-
2 cion for the purpose of subjection to involuntary
3 servitude, peonage, debt bondage, or slavery,
4 and was unable to apply for protection from
5 persecution in each country through which the
6 alien transited en route to the United States as
7 a result of such severe form of trafficking; or
8 “(III) the only countries through which the
9 alien transited en route to the United States
10 were, at the time of the transit, not parties to
11 the 1951 United Nations Convention relating to
12 the Status of Refugees, the 1967 Protocol Re-
13 lating to the Status of Refugees, or the United
14 Nations Convention against Torture and Other
15 Cruel, Inhuman or Degrading Treatment or
16 Punishment.”.

17 **SEC. 102. CREDIBLE FEAR INTERVIEWS.**

18 Section 235(b)(1)(B)(v) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
20 striking “there is a significant possibility” and all that fol-
21 lows, and inserting “, taking into account the credibility
22 of the statements made by the alien in support of the
23 alien’s claim, as determined pursuant to section
24 208(b)(1)(B)(iii), and such other facts as are known to
25 the officer, the alien more likely than not could establish

1 eligibility for asylum under section 208, and it is more
2 likely than not that the statements made by, and on behalf
3 of, the alien in support of the alien’s claim are true.”.

4 **SEC. 103. CLARIFICATION OF ASYLUM ELIGIBILITY.**

5 (a) IN GENERAL.—Section 208(b)(1)(A) of the Im-
6 migration and Nationality Act (8 U.S.C. 1158(b)(1)(A))
7 is amended by inserting after “section 101(a)(42)(A)” the
8 following: “(in accordance with the rules set forth in this
9 section), and is eligible to apply for asylum under sub-
10 section (a)”.

11 (b) PLACE OF ARRIVAL.—Section 208(a)(1) of the
12 Immigration and Nationality Act (8 U.S.C. 1158(a)(1))
13 is amended—

14 (1) by striking “or who arrives in the United
15 States (whether or not at a designated port of ar-
16 rival and including an alien who is brought to the
17 United States after having been interdicted in inter-
18 national or United States waters),”; and

19 (2) by inserting after “United States” the fol-
20 lowing: “and has arrived in the United States at a
21 port of entry (including an alien who is brought to
22 the United States after having been interdicted in
23 international or United States waters),”.

1 **SEC. 104. EXCEPTIONS.**

2 Paragraph (2) of section 208(b) of the Immigration
3 and Nationality Act (8 U.S.C. 1158(b)(2)) is amended to
4 read as follows:

5 “(2) EXCEPTIONS.—

6 “(A) IN GENERAL.—Paragraph (1) shall
7 not apply to an alien if the Secretary of Home-
8 land Security or the Attorney General deter-
9 mines that—

10 “(i) the alien ordered, incited, as-
11 sisted, or otherwise participated in the per-
12 secution of any person on account of race,
13 religion, nationality, membership in a par-
14 ticular social group, or political opinion;

15 “(ii) the alien has been convicted of
16 any felony under Federal, State, tribal, or
17 local law;

18 “(iii) the alien has been convicted of
19 any misdemeanor offense under Federal,
20 State, tribal, or local law involving—

21 “(I) the unlawful possession or
22 use of an identification document, au-
23 thentication feature, or false identi-
24 fication document (as those terms and
25 phrases are defined in the jurisdiction
26 where the conviction occurred), unless

1 the alien can establish that the convic-
2 tion resulted from circumstances
3 showing that—

4 “(aa) the document or fea-
5 ture was presented before board-
6 ing a common carrier;

7 “(bb) the document or fea-
8 ture related to the alien’s eligi-
9 bility to enter the United States;

10 “(cc) the alien used the doc-
11 ument or feature to depart a
12 country wherein the alien has
13 claimed a fear of persecution;
14 and

15 “(dd) the alien claimed a
16 fear of persecution without delay
17 upon presenting himself or her-
18 self to an immigration officer
19 upon arrival at a United States
20 port of entry;

21 “(II) the unlawful receipt of a
22 Federal public benefit (as defined in
23 section 401(e) of the Personal Re-
24 sponsibility and Work Opportunity
25 Reconciliation Act of 1996 (8 U.S.C.

1 1611(e)), from a Federal entity, or
2 the unlawful receipt of similar public
3 benefits from a State, tribal, or local
4 entity; or

5 “(III) possession or trafficking of
6 a controlled substance or controlled
7 substance paraphernalia, as those
8 phrases are defined under the law of
9 the jurisdiction where the conviction
10 occurred, other than a single offense
11 involving possession for one’s own use
12 of 30 grams or less of marijuana (as
13 marijuana is defined under the law of
14 the jurisdiction where the conviction
15 occurred);

16 “(iv) the alien has been convicted of
17 an offense arising under paragraph (1)(A)
18 or (2) of section 274(a), or under section
19 276;

20 “(v) the alien has been convicted of a
21 Federal, State, tribal, or local crime that
22 the Attorney General or Secretary of
23 Homeland Security knows, or has reason
24 to believe, was committed in support, pro-
25 motion, or furtherance of the activity of a

1 criminal street gang (as defined under the
2 law of the jurisdiction where the conviction
3 occurred or in section 521(a) of title 18,
4 United States Code);

5 “(vi) the alien has been convicted of
6 an offense for driving while intoxicated or
7 impaired, as those terms are defined under
8 the law of the jurisdiction where the con-
9 viction occurred (including a conviction for
10 driving while under the influence of or im-
11 paired by alcohol or drugs), without regard
12 to whether the conviction is classified as a
13 misdemeanor or felony under Federal,
14 State, tribal, or local law, in which such in-
15 toxicated or impaired driving was a cause
16 of serious bodily injury or death of another
17 person;

18 “(vii) the alien has been convicted of
19 more than one offense for driving while in-
20 toxicated or impaired, as those terms are
21 defined under the law of the jurisdiction
22 where the conviction occurred (including a
23 conviction for driving while under the in-
24 fluence of or impaired by alcohol or drugs),
25 without regard to whether the conviction is

1 classified as a misdemeanor or felony
2 under Federal, State, tribal, or local law;

3 “(viii) the alien has been convicted of
4 a crime—

5 “(I) that involves conduct
6 amounting to a crime of stalking;

7 “(II) of child abuse, child ne-
8 glect, or child abandonment; or

9 “(III) that involves conduct
10 amounting to a domestic assault or
11 battery offense, including—

12 “(aa) a misdemeanor crime
13 of domestic violence, as described
14 in section 921(a)(33) of title 18,
15 United States Code;

16 “(bb) a crime of domestic vi-
17 olence, as described in section
18 40002(a)(12) of the Violence
19 Against Women Act of 1994 (34
20 U.S.C. 12291(a)(12)); or

21 “(cc) any crime based on
22 conduct in which the alien har-
23 assed, coerced, intimidated, vol-
24 untarily or recklessly used (or
25 threatened to use) force or vio-

1 lence against, or inflicted phys-
2 ical injury or physical pain, how-
3 ever slight, upon a person—

4 “ (AA) who is a current
5 or former spouse of the
6 alien;

7 “ (BB) with whom the
8 alien shares a child;

9 “ (CC) who is cohabi-
10 tating with, or who has
11 cohabitated with, the alien
12 as a spouse;

13 “ (DD) who is similarly
14 situated to a spouse of the
15 alien under the domestic or
16 family violence laws of the
17 jurisdiction where the of-
18 fense occurred; or

19 “ (EE) who is protected
20 from that alien’s acts under
21 the domestic or family vio-
22 lence laws of the United
23 States or of any State, tribal
24 government, or unit of local
25 government;

1 “(ix) the alien has engaged in acts of
2 battery or extreme cruelty upon a person
3 and the person—

4 “(I) is a current or former
5 spouse of the alien;

6 “(II) shares a child with the
7 alien;

8 “(III) cohabitates or has
9 cohabitated with the alien as a spouse;

10 “(IV) is similarly situated to a
11 spouse of the alien under the domestic
12 or family violence laws of the jurisdic-
13 tion where the offense occurred; or

14 “(V) is protected from that
15 alien’s acts under the domestic or
16 family violence laws of the United
17 States or of any State, tribal govern-
18 ment, or unit of local government;

19 “(x) the alien, having been convicted
20 by a final judgment of a particularly seri-
21 ous crime, constitutes a danger to the com-
22 munity of the United States;

23 “(xi) there are serious reasons for be-
24 lieving that the alien has committed a seri-
25 ous nonpolitical crime outside the United

1 States prior to the arrival of the alien in
2 the United States;

3 “(xii) there are reasonable grounds
4 for regarding the alien as a danger to the
5 security of the United States;

6 “(xiii) the alien is described in sub-
7 clause (I), (II), (III), (IV), or (VI) of sec-
8 tion 212(a)(3)(B)(i) or section
9 237(a)(4)(B) (relating to terrorist activ-
10 ity), unless, in the case only of an alien in-
11 admissible under subclause (IV) of section
12 212(a)(3)(B)(i), the Secretary of Home-
13 land Security or the Attorney General de-
14 termines, in the Secretary’s or the Attor-
15 ney General’s discretion, that there are not
16 reasonable grounds for regarding the alien
17 as a danger to the security of the United
18 States;

19 “(xiv) the alien was firmly resettled in
20 another country prior to arriving in the
21 United States; or

22 “(xv) there are reasonable grounds for
23 concluding the alien could avoid persecu-
24 tion by relocating to another part of the
25 alien’s country of nationality or, in the

1 case of an alien having no nationality, an-
2 other part of the alien's country of last ha-
3 bitual residence.

4 “(B) SPECIAL RULES.—

5 “(i) PARTICULARLY SERIOUS CRIME;
6 SERIOUS NONPOLITICAL CRIME OUTSIDE
7 THE UNITED STATES.—

8 “(I) IN GENERAL.—For purposes
9 of subparagraph (A)(x), the Attorney
10 General or Secretary of Homeland Se-
11 curity, in their discretion, may deter-
12 mine that a conviction constitutes a
13 particularly serious crime based on—

14 “(aa) the nature of the con-
15 viction;

16 “(bb) the type of sentence
17 imposed; or

18 “(cc) the circumstances and
19 underlying facts of the convic-
20 tion.

21 “(II) DETERMINATION.—In mak-
22 ing a determination under subclause
23 (I), the Attorney General or Secretary
24 of Homeland Security may consider
25 all reliable information and is not lim-

1 ited to facts found by the criminal
2 court or provided in the underlying
3 record of conviction.

4 “(III) TREATMENT OF FELO-
5 NIES.—In making a determination
6 under subclause (I), an alien who has
7 been convicted of a felony (as defined
8 under this section) or an aggravated
9 felony (as defined under section
10 101(a)(43)), shall be considered to
11 have been convicted of a particularly
12 serious crime.

13 “(IV) INTERPOL RED NOTICE.—
14 In making a determination under sub-
15 paragraph (A)(xi), an Interpol Red
16 Notice may constitute reliable evi-
17 dence that the alien has committed a
18 serious nonpolitical crime outside the
19 United States.

20 “(ii) CRIMES AND EXCEPTIONS.—

21 “(I) DRIVING WHILE INTOXI-
22 CATED OR IMPAIRED.—A finding
23 under subparagraph (A)(vi) does not
24 require the Attorney General or Sec-
25 retary of Homeland Security to find

1 the first conviction for driving while
2 intoxicated or impaired (including a
3 conviction for driving while under the
4 influence of or impaired by alcohol or
5 drugs) as a predicate offense. The At-
6 torney General or Secretary of Home-
7 land Security need only make a fac-
8 tual determination that the alien pre-
9 viously was convicted for driving while
10 intoxicated or impaired as those terms
11 are defined under the jurisdiction
12 where the conviction occurred (includ-
13 ing a conviction for driving while
14 under the influence of or impaired by
15 alcohol or drugs).

16 “(II) STALKING AND OTHER
17 CRIMES.—In making a determination
18 under subparagraph (A)(viii), includ-
19 ing determining the existence of a do-
20 mestic relationship between the alien
21 and the victim, the underlying conduct
22 of the crime may be considered, and
23 the Attorney General or Secretary of
24 Homeland Security is not limited to
25 facts found by the criminal court or

1 provided in the underlying record of
2 conviction.

3 “(III) BATTERY OR EXTREME
4 CRUELTY.—In making a determina-
5 tion under subparagraph (A)(ix), the
6 phrase ‘battery or extreme cruelty’ in-
7 cludes—

8 “(aa) any act or threatened
9 act of violence, including any
10 forceful detention, which results
11 or threatens to result in physical
12 or mental injury;

13 “(bb) psychological or sexual
14 abuse or exploitation, including
15 rape, molestation, incest, or
16 forced prostitution, shall be con-
17 sidered acts of violence; and

18 “(cc) other abusive acts, in-
19 cluding acts that, in and of them-
20 selves, may not initially appear
21 violent, but that are a part of an
22 overall pattern of violence.

23 “(IV) EXCEPTION FOR VICTIMS
24 OF DOMESTIC VIOLENCE.—An alien
25 who was convicted of an offense de-

1 scribed in clause (viii) or (ix) of sub-
2 paragraph (A) is not ineligible for
3 asylum on that basis if the alien satis-
4 fies the criteria under section
5 237(a)(7)(A).

6 “(C) SPECIFIC CIRCUMSTANCES.—Para-
7 graph (1) shall not apply to an alien whose
8 claim is based on—

9 “(i) personal animus or retribution,
10 including personal animus in which the al-
11 leged persecutor has not targeted, or mani-
12 fested an animus against, other members
13 of an alleged particular social group in ad-
14 dition to the member who has raised the
15 claim at issue;

16 “(ii) the applicant’s generalized dis-
17 approval of, disagreement with, or opposi-
18 tion to criminal, terrorist, gang, guerilla,
19 or other non-state organizations absent ex-
20 pressive behavior in furtherance of a dis-
21 crete cause against such organizations re-
22 lated to control of a State or expressive be-
23 havior that is antithetical to the State or
24 a legal unit of the State;

1 “(iii) the applicant’s resistance to re-
2 cruitment or coercion by guerrilla, crimi-
3 nal, gang, terrorist, or other non-state or-
4 ganizations;

5 “(iv) the targeting of the applicant for
6 criminal activity for financial gain based
7 on wealth or affluence or perceptions of
8 wealth or affluence;

9 “(v) the applicant’s criminal activity;
10 or

11 “(vi) the applicant’s perceived, past or
12 present, gang affiliation.

13 “(D) DEFINITIONS AND CLARIFICA-
14 TIONS.—

15 “(i) DEFINITIONS.—For purposes of
16 this paragraph:

17 “(I) FELONY.—The term ‘felony’
18 means—

19 “(aa) any crime defined as a
20 felony by the relevant jurisdiction
21 (Federal, State, tribal, or local)
22 of conviction; or

23 “(bb) any crime punishable
24 by more than one year of impris-
25 onment.

1 “(II) MISDEMEANOR.—The term
2 ‘misdemeanor’ means—

3 “(aa) any crime defined as a
4 misdemeanor by the relevant ju-
5 risdiction (Federal, State, tribal,
6 or local) of conviction; or

7 “(bb) any crime not punish-
8 able by more than one year of
9 imprisonment.

10 “(ii) CLARIFICATIONS.—

11 “(I) CONSTRUCTION.—For pur-
12 poses of this paragraph, whether any
13 activity or conviction also may con-
14 stitute a basis for removal is immate-
15 rial to a determination of asylum eli-
16 gibility.

17 “(II) ATTEMPT, CONSPIRACY, OR
18 SOLICITATION.—For purposes of this
19 paragraph, all references to a criminal
20 offense or criminal conviction shall be
21 deemed to include any attempt, con-
22 spiracy, or solicitation to commit the
23 offense or any other inchoate form of
24 the offense.

1 “(III) EFFECT OF CERTAIN OR-
2 DERS.—

3 “(aa) IN GENERAL.—No
4 order vacating a conviction,
5 modifying a sentence, clarifying a
6 sentence, or otherwise altering a
7 conviction or sentence shall have
8 any effect under this paragraph
9 unless the Attorney General or
10 Secretary of Homeland Security
11 determines that—

12 “(AA) the court issuing
13 the order had jurisdiction
14 and authority to do so; and

15 “(BB) the order was
16 not entered for rehabilitative
17 purposes or for purposes of
18 ameliorating the immigra-
19 tion consequences of the
20 conviction or sentence.

21 “(bb) AMELIORATING IMMI-
22 GRATION CONSEQUENCES.—For
23 purposes of item (aa)(BB), the
24 order shall be presumed to be for

1 the purpose of ameliorating im-
2 migration consequences if—
3 “(AA) the order was
4 entered after the initiation
5 of any proceeding to remove
6 the alien from the United
7 States; or
8 “(BB) the alien moved
9 for the order more than one
10 year after the date of the
11 original order of conviction
12 or sentencing, whichever is
13 later.
14 “(cc) AUTHORITY OF IMMI-
15 GRATION JUDGE.—An immigra-
16 tion judge is not limited to con-
17 sideration only of material in-
18 cluded in any order vacating a
19 conviction, modifying a sentence,
20 or clarifying a sentence to deter-
21 mine whether such order should
22 be given any effect under this
23 paragraph, but may consider
24 such additional information as

1 the immigration judge determines
2 appropriate.

3 “(E) ADDITIONAL LIMITATIONS.—The
4 Secretary of Homeland Security or the Attorney
5 General may by regulation establish additional
6 limitations and conditions, consistent with this
7 section, under which an alien shall be ineligible
8 for asylum under paragraph (1).

9 “(F) NO JUDICIAL REVIEW.—There shall
10 be no judicial review of a determination of the
11 Secretary of Homeland Security or the Attorney
12 General under subparagraph (A)(xiii).”.

13 **SEC. 105. EMPLOYMENT AUTHORIZATION.**

14 Paragraph (2) of section 208(d) of the Immigration
15 and Nationality Act (8 U.S.C. 1158(d)) is amended to
16 read as follows:

17 “(2) EMPLOYMENT AUTHORIZATION.—

18 “(A) AUTHORIZATION PERMITTED.—An
19 applicant for asylum is not entitled to employ-
20 ment authorization, but such authorization may
21 be provided under regulation by the Secretary
22 of Homeland Security. An applicant who is not
23 otherwise eligible for employment authorization
24 shall not be granted such authorization prior to

1 the date that is 180 days after the date of filing
2 of the application for asylum.

3 “(B) TERMINATION.—Each grant of em-
4 ployment authorization under subparagraph
5 (A), and any renewal or extension thereof, shall
6 be valid for a period of 6 months, except that
7 such authorization, renewal, or extension shall
8 terminate prior to the end of such 6 month pe-
9 riod as follows:

10 “(i) Immediately following the denial
11 of an asylum application by an asylum offi-
12 cer, unless the case is referred to an immi-
13 gration judge.

14 “(ii) 30 days after the date on which
15 an immigration judge denies an asylum ap-
16 plication, unless the alien timely appeals to
17 the Board of Immigration Appeals.

18 “(iii) Immediately following the denial
19 by the Board of Immigration Appeals of an
20 appeal of a denial of an asylum applica-
21 tion.

22 “(C) RENEWAL.—The Secretary of Home-
23 land Security may not grant, renew, or extend
24 employment authorization to an alien if the
25 alien was previously granted employment au-

1 thorization under subparagraph (A), and the
2 employment authorization was terminated pur-
3 suant to a circumstance described in subpara-
4 graph (B)(i), (ii), or (iii), unless a Federal
5 court of appeals remands the alien’s case to the
6 Board of Immigration Appeals.

7 “(D) INELIGIBILITY.—The Secretary of
8 Homeland Security may not grant employment
9 authorization to an alien under this paragraph
10 if the alien—

11 “(i) is ineligible for asylum under sub-
12 section (b)(2)(A); or

13 “(ii) entered or attempted to enter the
14 United States at a place and time other
15 than lawfully through a United States port
16 of entry.”.

17 **SEC. 106. ASYLUM FEES.**

18 Paragraph (3) of section 208(d) of the Immigration
19 and Nationality Act (8 U.S.C. 1158(d)) is amended to
20 read as follows:

21 “(3) FEES.—

22 “(A) APPLICATION FEE.—A fee of not less
23 than \$50 for each application for asylum shall
24 be imposed. Such fee shall not exceed the cost
25 of adjudicating the application. Such fee shall

1 not apply to an unaccompanied alien child who
2 files an asylum application in proceedings under
3 section 240.

4 “(B) EMPLOYMENT AUTHORIZATION.—A
5 fee may also be imposed for the consideration
6 of an application for employment authorization
7 under this section and for adjustment of status
8 under section 209(b). Such a fee shall not ex-
9 ceed the cost of adjudicating the application.

10 “(C) PAYMENT.—Fees under this para-
11 graph may be assessed and paid over a period
12 of time or by installments.

13 “(D) RULE OF CONSTRUCTION.—Nothing
14 in this paragraph shall be construed to limit the
15 authority of the Attorney General or Secretary
16 of Homeland Security to set adjudication and
17 naturalization fees in accordance with section
18 286(m).”.

19 **SEC. 107. RULES FOR DETERMINING ASYLUM ELIGIBILITY.**

20 Section 208 of the Immigration and Nationality Act
21 (8 U.S.C. 1158) is amended by adding at the end the fol-
22 lowing:

23 “(f) RULES FOR DETERMINING ASYLUM ELIGI-
24 BILITY.—In making a determination under subsection
25 (b)(1)(A) with respect to whether an alien is a refugee

1 within the meaning of section 101(a)(42)(A), the following
2 shall apply:

3 “(1) PARTICULAR SOCIAL GROUP.—The Sec-
4 retary of Homeland Security or the Attorney Gen-
5 eral shall not determine that an alien is a member
6 of a particular social group unless the alien articu-
7 lates on the record, or provides a basis on the record
8 for determining, the definition and boundaries of the
9 alleged particular social group, establishes that the
10 particular social group exists independently from the
11 alleged persecution, and establishes that the alien’s
12 claim of membership in a particular social group
13 does not involve—

14 “(A) past or present criminal activity or
15 association (including gang membership);

16 “(B) presence in a country with general-
17 ized violence or a high crime rate;

18 “(C) being the subject of a recruitment ef-
19 fort by criminal, terrorist, or persecutory
20 groups;

21 “(D) the targeting of the applicant for
22 criminal activity for financial gain based on per-
23 ceptions of wealth or affluence;

1 “(E) interpersonal disputes of which gov-
2 ernmental authorities in the relevant society or
3 region were unaware or uninvolved;

4 “(F) private criminal acts of which govern-
5 mental authorities in the relevant society or re-
6 gion were unaware or uninvolved;

7 “(G) past or present terrorist activity or
8 association;

9 “(H) past or present persecutory activity
10 or association; or

11 “(I) status as an alien returning from the
12 United States.

13 “(2) POLITICAL OPINION.—The Secretary of
14 Homeland Security or the Attorney General may not
15 determine that an alien holds a political opinion with
16 respect to which the alien is subject to persecution
17 if the political opinion is constituted solely by gener-
18 alized disapproval of, disagreement with, or opposi-
19 tion to criminal, terrorist, gang, guerilla, or other
20 non-state organizations and does not include expres-
21 sive behavior in furtherance of a cause against such
22 organizations related to efforts by the State to con-
23 trol such organizations or behavior that is antithet-
24 ical to or otherwise opposes the ruling legal entity of
25 the State or a unit thereof.

1 “(3) PERSECUTION.—The Secretary of Home-
2 land Security or the Attorney General may not de-
3 termine that an alien has been subject to persecution
4 or has a well-founded fear of persecution based only
5 on—

6 “(A) the existence of laws or government
7 policies that are unenforced or infrequently en-
8 forced, unless there is credible evidence that
9 such a law or policy has been or would be ap-
10 plied to the applicant personally; or

11 “(B) the conduct of rogue foreign govern-
12 ment officials acting outside the scope of their
13 official capacity.

14 “(4) DISCRETIONARY DETERMINATION.—

15 “(A) ADVERSE DISCRETIONARY FAC-
16 TORS.—The Secretary of Homeland Security or
17 the Attorney General may only grant asylum to
18 an alien if the alien establishes that he or she
19 warrants a favorable exercise of discretion. In
20 making such a determination, the Attorney
21 General or Secretary of Homeland Security
22 shall consider, if applicable, an alien’s use of
23 fraudulent documents to enter the United
24 States, unless the alien arrived in the United
25 States by air, sea, or land directly from the ap-

1 plicant’s home country without transiting
2 through any other country.

3 “(B) FAVORABLE EXERCISE OF DISCRE-
4 TION NOT PERMITTED.—Except as provided in
5 subparagraph (C), the Attorney General or Sec-
6 retary of Homeland Security shall not favorably
7 exercise discretion under this section for any
8 alien who—

9 “(i) has accrued more than one year
10 of unlawful presence in the United States,
11 as defined in sections 212(a)(9)(B)(ii) and
12 (iii), prior to filing an application for asy-
13 lum;

14 “(ii) at the time the asylum applica-
15 tion is filed with the immigration court or
16 is referred from the Department of Home-
17 land Security, has—

18 “(I) failed to timely file (or time-
19 ly file a request for an extension of
20 time to file) any required Federal,
21 State, or local income tax returns;

22 “(II) failed to satisfy any out-
23 standing Federal, State, or local tax
24 obligations; or

1 “(III) income that would result
2 in tax liability under section 1 of the
3 Internal Revenue Code of 1986 and
4 that was not reported to the Internal
5 Revenue Service;

6 “(iii) has had two or more prior asy-
7 lum applications denied for any reason;

8 “(iv) has withdrawn a prior asylum
9 application with prejudice or been found to
10 have abandoned a prior asylum application;

11 “(v) failed to attend an interview re-
12 garding his or her asylum application with
13 the Department of Homeland Security, un-
14 less the alien shows by a preponderance of
15 the evidence that—

16 “(I) exceptional circumstances
17 prevented the alien from attending the
18 interview; or

19 “(II) the interview notice was not
20 mailed to the last address provided by
21 the alien or the alien’s representative
22 and neither the alien nor the alien’s
23 representative received notice of the
24 interview; or

1 “(vi) was subject to a final order of
2 removal, deportation, or exclusion and did
3 not file a motion to reopen to seek asylum
4 based on changed country conditions with-
5 in one year of the change in country condi-
6 tions.

7 “(C) EXCEPTIONS.—If one or more of the
8 adverse discretionary factors set forth in sub-
9 paragraph (B) are present, the Attorney Gen-
10 eral or the Secretary, may, notwithstanding
11 such subparagraph (B), favorably exercise dis-
12 cretion under section 208—

13 “(i) in extraordinary circumstances,
14 such as those involving national security or
15 foreign policy considerations; or

16 “(ii) if the alien, by clear and con-
17 vincing evidence, demonstrates that the de-
18 nial of the application for asylum would re-
19 sult in exceptional and extremely unusual
20 hardship to the alien.

21 “(5) LIMITATION.—If the Secretary or the At-
22 torney General determines that an alien fails to sat-
23 isfy the requirement under paragraph (1), the alien
24 may not be granted asylum based on membership in
25 a particular social group, and may not appeal the

1 determination of the Secretary or Attorney General,
2 as applicable. A determination under this paragraph
3 shall not serve as the basis for any motion to reopen
4 or reconsider an application for asylum or with-
5 holding of removal for any reason, including a claim
6 of ineffective assistance of counsel, unless the alien
7 complies with the procedural requirements for such
8 a motion and demonstrates that counsel's failure to
9 define, or provide a basis for defining, a formulation
10 of a particular social group was both not a strategic
11 choice and constituted egregious conduct.

12 “(6) STEREOTYPES.—Evidence offered in sup-
13 port of an application for asylum that promotes cul-
14 tural stereotypes about a country, its inhabitants, or
15 an alleged persecutor, including stereotypes based on
16 race, religion, nationality, or gender, shall not be ad-
17 missible in adjudicating that application, except that
18 evidence that an alleged persecutor holds
19 stereotypical views of the applicant shall be admis-
20 sible.

21 “(7) DEFINITIONS.—In this section:

22 “(A) The term ‘membership in a particular
23 social group’ means membership in a group
24 that is—

1 “(i) composed of members who share
2 a common immutable characteristic;

3 “(ii) defined with particularity; and

4 “(iii) socially distinct within the soci-
5 ety in question.

6 “(B) The term ‘political opinion’ means an
7 ideal or conviction in support of the furtherance
8 of a discrete cause related to political control of
9 a state or a unit thereof.

10 “(C) The term ‘persecution’ means the in-
11 fliction of a severe level of harm constituting an
12 exigent threat by the government of a country
13 or by persons or an organization that the gov-
14 ernment was unable or unwilling to control.
15 Such term does not include—

16 “(i) generalized harm or violence that
17 arises out of civil, criminal, or military
18 strife in a country;

19 “(ii) all treatment that the United
20 States regards as unfair, offensive, unjust,
21 unlawful, or unconstitutional;

22 “(iii) intermittent harassment, includ-
23 ing brief detentions;

24 “(iv) threats with no actual effort to
25 carry out the threats, except that particu-

1 larized threats of severe harm of an imme-
2 diate and menacing nature made by an
3 identified entity may constitute persecu-
4 tion; or

5 “(v) non-severe economic harm or
6 property damage.”.

7 **SEC. 108. FIRM RESETTLEMENT.**

8 Section 208 of the Immigration and Nationality Act
9 (8 U.S.C. 1158), as amended by this title, is further
10 amended by adding at the end the following:

11 “(g) FIRM RESETTLEMENT.—In determining wheth-
12 er an alien was firmly resettled in another country prior
13 to arriving in the United States under subsection
14 (b)(2)(A)(xiv), the following shall apply:

15 “(1) IN GENERAL.—An alien shall be consid-
16 ered to have firmly resettled in another country if,
17 after the events giving rise to the alien’s asylum
18 claim—

19 “(A) the alien resided in a country through
20 which the alien transited prior to arriving in or
21 entering the United States and—

22 “(i) received or was eligible for any
23 permanent legal immigration status in that
24 country;

1 “(ii) resided in such a country with
2 any non-permanent but indefinitely renew-
3 able legal immigration status (including
4 asylee, refugee, or similar status, but ex-
5 cluding status of a tourist); or

6 “(iii) resided in such a country and
7 could have applied for and obtained an im-
8 migration status described in clause (ii);

9 “(B) the alien physically resided volun-
10 tarily, and without continuing to suffer persecu-
11 tion or torture, in any one country for one year
12 or more after departing his country of nation-
13 ality or last habitual residence and prior to ar-
14 rival in or entry into the United States, except
15 for any time spent in Mexico by an alien who
16 is not a native or citizen of Mexico solely as a
17 direct result of being returned to Mexico pursu-
18 ant to section 235(b)(3) or of being subject to
19 metering; or

20 “(C) the alien is a citizen of a country
21 other than the country in which the alien al-
22 leges a fear of persecution, or was a citizen of
23 such a country in the case of an alien who re-
24 nounces such citizenship, and the alien was
25 present in that country after departing his

1 country of nationality or last habitual residence
2 and prior to arrival in or entry into the United
3 States.

4 “(2) BURDEN OF PROOF.—If an immigration
5 judge determines that an alien has firmly resettled
6 in another country under paragraph (1), the alien
7 shall bear the burden of proving the bar does not
8 apply.

9 “(3) FIRM RESETTLEMENT OF PARENT.—An
10 alien shall be presumed to have been firmly resettled
11 in another country if the alien’s parent was firmly
12 resettled in another country, the parent’s settle-
13 ment occurred before the alien turned 18 years of
14 age, and the alien resided with such parent at the
15 time of the firm resettlement, unless the alien estab-
16 lishes that he or she could not have derived any per-
17 manent legal immigration status or any non-perma-
18 nent but indefinitely renewable legal immigration
19 status (including asylum, refugee, or similar status,
20 but excluding status of a tourist) from the alien’s
21 parent.”.

1 **SEC. 109. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
2 **PLICATIONS.**

3 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
5 amended—

6 (1) in the matter preceding subparagraph (A),
7 by inserting “the Secretary of Homeland Security
8 or” before “the Attorney General”;

9 (2) in subparagraph (A), by striking “and of
10 the consequences, under paragraph (6), of knowingly
11 filing a frivolous application for asylum; and” and
12 inserting a semicolon;

13 (3) in subparagraph (B), by striking the period
14 and inserting “; and”; and

15 (4) by adding at the end the following:

16 “(C) ensure that a written warning ap-
17 pears on the asylum application advising the
18 alien of the consequences of filing a frivolous
19 application and serving as notice to the alien of
20 the consequence of filing a frivolous applica-
21 tion.”.

22 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1158(d)(6)) is amended by striking “If the” and all that
25 follows and inserting:

1 “(A) IN GENERAL.—If the Secretary of
2 Homeland Security or the Attorney General de-
3 termines that an alien has knowingly made a
4 frivolous application for asylum and the alien
5 has received the notice under paragraph (4)(C),
6 the alien shall be permanently ineligible for any
7 benefits under this chapter, effective as the date
8 of the final determination of such an applica-
9 tion.

10 “(B) CRITERIA.—An application is frivo-
11 lous if the Secretary of Homeland Security or
12 the Attorney General determines, consistent
13 with subparagraph (C), that—

14 “(i) it is so insufficient in substance
15 that it is clear that the applicant know-
16 ingly filed the application solely or in part
17 to delay removal from the United States,
18 to seek employment authorization as an
19 applicant for asylum pursuant to regula-
20 tions issued pursuant to paragraph (2), or
21 to seek issuance of a Notice to Appear in
22 order to pursue Cancellation of Removal
23 under section 240A(b); or

24 “(ii) any of the material elements are
25 knowingly fabricated.

1 “(C) SUFFICIENT OPPORTUNITY TO CLAR-
2 IFY.—In determining that an application is friv-
3 olous, the Secretary or the Attorney General,
4 must be satisfied that the applicant, during the
5 course of the proceedings, has had sufficient op-
6 portunity to clarify any discrepancies or implau-
7 sible aspects of the claim.

8 “(D) WITHHOLDING OF REMOVAL NOT
9 PRECLUDED.—For purposes of this section, a
10 finding that an alien filed a frivolous asylum
11 application shall not preclude the alien from
12 seeking withholding of removal under section
13 241(b)(3) or protection pursuant to the Con-
14 vention Against Torture.”.

15 **SEC. 110. TECHNICAL AMENDMENTS.**

16 Section 208 of the Immigration and Nationality Act
17 (8 U.S.C. 1158) is amended—

18 (1) in subsection (a)—

19 (A) in paragraph (2)(D), by inserting
20 “Secretary of Homeland Security or the” before
21 “Attorney General”; and

22 (B) in paragraph (3), by inserting “Sec-
23 retary of Homeland Security or the” before
24 “Attorney General”;

25 (2) in subsection (c)—

1 (A) in paragraph (1), by striking “Attor-
2 ney General” each place such term appears and
3 inserting “Secretary of Homeland Security”;

4 (B) in paragraph (2), in the matter pre-
5 ceding subparagraph (A), by inserting “Sec-
6 retary of Homeland Security or the” before
7 “Attorney General”; and

8 (C) in paragraph (3), by inserting “Sec-
9 retary of Homeland Security or the” before
10 “Attorney General”; and

11 (3) in subsection (d)—

12 (A) in paragraph (1), by inserting “Sec-
13 retary of Homeland Security or the” before
14 “Attorney General” each place such term ap-
15 pears; and

16 (B) in paragraph (5)—

17 (i) in subparagraph (A), by striking
18 “Attorney General” and inserting “Sec-
19 retary of Homeland Security”; and

20 (ii) in subparagraph (B), by inserting
21 “Secretary of Homeland Security or the”
22 before “Attorney General”.

1 **SEC. 111. REQUIREMENT FOR PROCEDURES RELATING TO**
2 **CERTAIN ASYLUM APPLICATIONS.**

3 (a) IN GENERAL.—Not later than 30 days after the
4 date of the enactment of this Act, the Attorney General
5 shall establish procedures to expedite the adjudication of
6 asylum applications for aliens—

7 (1) who are subject to removal proceedings
8 under section 240 of the Immigration and Nation-
9 ality Act (8 U.S.C. 1229a); and

10 (2) who are nationals of a Western Hemisphere
11 country sanctioned by the United States, as de-
12 scribed in subsection (b), as of January 1, 2023.

13 (b) WESTERN HEMISPHERE COUNTRY SANCTIONED
14 BY THE UNITED STATES DESCRIBED.—Subsection (a)
15 shall apply only to an asylum application filed by an alien
16 who is a national of a Western Hemisphere country sub-
17 ject to sanctions pursuant to—

18 (1) the Cuban Liberty and Democratic Soli-
19 darity (LIBERTAD) Act of 1996 (22 U.S.C. 6021
20 note);

21 (2) the Reinforcing Nicaragua’s Adherence to
22 Conditions for Electoral Reform Act of 2021 or the
23 RENACER Act (50 U.S.C. 1701 note); or

24 (3) Executive Order 13692 (80 Fed. Reg.
25 12747; declaring a national emergency with respect
26 to the situation in Venezuela).

1 (c) APPLICABILITY.—This section shall only apply to
2 an alien who files an application for asylum after the date
3 of the enactment of this Act.

4 **TITLE II—BORDER SAFETY AND**
5 **MIGRANT PROTECTION**

6 **SEC. 201. INSPECTION OF APPLICANTS FOR ADMISSION.**

7 Section 235 of the Immigration and Nationality Act
8 (8 U.S.C. 1225) is amended—

9 (1) in subsection (b)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) in clauses (i) and (ii), by
13 striking “section 212(a)(6)(C)” in-
14 serting “subparagraph (A) or (C) of
15 section 212(a)(6)”; and

16 (II) by adding at the end the fol-
17 lowing:

18 “(iv) INELIGIBILITY FOR PAROLE.—
19 An alien described in clause (i) or (ii) shall
20 not be eligible for parole except as ex-
21 pressly authorized pursuant to section
22 212(d)(5), or for parole or release pursu-
23 ant to section 236(a).”; and

24 (ii) in subparagraph (B)—

- 1 (I) in clause (ii), by striking
2 “asylum.” and inserting “asylum and
3 shall not be released (including pursu-
4 ant to parole or release pursuant to
5 section 236(a) but excluding as ex-
6 pressly authorized pursuant to section
7 212(d)(5)) other than to be removed
8 or returned to a country as described
9 in paragraph (3).”; and
10 (II) in clause (iii)(IV)—
11 (aa) in the header by strik-
12 ing “DETENTION” and inserting
13 “DETENTION, RETURN, OR RE-
14 MOVAL”; and
15 (bb) by adding at the end
16 the following: “The alien shall
17 not be released (including pursu-
18 ant to parole or release pursuant
19 to section 236(a) but excluding
20 as expressly authorized pursuant
21 to section 212(d)(5)) other than
22 to be removed or returned to a
23 country as described in para-
24 graph (3).”;
25 (B) in paragraph (2)—

1 (i) in subparagraph (A)—

2 (I) by striking “Subject to sub-
3 paragraphs (B) and (C),” and insert-
4 ing “Subject to subparagraph (B) and
5 paragraph (3),”; and

6 (II) by adding at the end the fol-
7 lowing: “The alien shall not be re-
8 leased (including pursuant to parole
9 or release pursuant to section 236(a)
10 but excluding as expressly authorized
11 pursuant to section 212(d)(5)) other
12 than to be removed or returned to a
13 country as described in paragraph
14 (3).”; and

15 (ii) by striking subparagraph (C);

16 (C) by redesignating paragraph (3) as
17 paragraph (5); and

18 (D) by inserting after paragraph (2) the
19 following:

20 “(3) RETURN TO FOREIGN TERRITORY CONTIG-
21 UOUS TO THE UNITED STATES.—

22 “(A) IN GENERAL.—The Secretary of
23 Homeland Security may return to a foreign ter-
24 ritory contiguous to the United States any alien
25 arriving on land from that territory (whether or

1 not at a designated port of entry) pending a
2 proceeding under section 240 or review of a de-
3 termination under subsection (b)(1)(B)(iii)(III).

4 “(B) MANDATORY RETURN.—If at any
5 time the Secretary of Homeland Security can-
6 not—

7 “(i) comply with its obligations to de-
8 tain an alien as required under clauses (ii)
9 and (iii)(IV) of subsection (b)(1)(B) and
10 subsection (b)(2)(A); or

11 “(ii) remove an alien to a country de-
12 scribed in section 208(a)(2)(A),

13 the Secretary of Homeland Security shall, with-
14 out exception, including pursuant to parole or
15 release pursuant to section 236(a) but exclud-
16 ing as expressly authorized pursuant to section
17 212(d)(5), return to a foreign territory contig-
18 uous to the United States any alien arriving on
19 land from that territory (whether or not at a
20 designated port of entry) pending a proceeding
21 under section 240 or review of a determination
22 under subsection (b)(1)(B)(iii)(III).

23 “(4) ENFORCEMENT BY STATE ATTORNEYS
24 GENERAL.—The attorney general of a State, or
25 other authorized State officer, alleging a violation of

1 the detention, return, or removal requirements under
2 paragraph (1), (2), or (3) that affects such State or
3 its residents, may bring an action against the Sec-
4 retary of Homeland Security on behalf of the resi-
5 dents of the State in an appropriate United States
6 district court to obtain appropriate injunctive re-
7 lief.”; and

8 (2) by adding at the end the following:

9 “(e) **AUTHORITY TO PROHIBIT INTRODUCTION OF**
10 **CERTAIN ALIENS.**—If the Secretary of Homeland Security
11 determines, in his discretion, that the prohibition of the
12 introduction of aliens who are inadmissible under subpara-
13 graph (A) or (C) of section 212(a)(6) or under section
14 212(a)(7) at an international land or maritime border of
15 the United States is necessary to achieve operational con-
16 trol (as defined in section 2 of the Secure Fence Act of
17 2006 (8 U.S.C. 1701 note)) of such border, the Secretary
18 may prohibit, in whole or in part, the introduction of such
19 aliens at such border for such period of time as the Sec-
20 retary determines is necessary for such purpose.”.

21 **SEC. 202. OPERATIONAL DETENTION FACILITIES.**

22 (a) **IN GENERAL.**—Not later than September 30,
23 2023, the Secretary of Homeland Security shall take all
24 necessary actions to reopen or restore all U.S. Immigra-
25 tion and Customs Enforcement detention facilities that

1 were in operation on January 20, 2021, that subsequently
2 closed or with respect to which the use was altered, re-
3 duced, or discontinued after January 20, 2021. In car-
4 rying out the requirement under this subsection, the Sec-
5 retary may use the authority under section 103(a)(11) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1103(a)(11)).

8 (b) SPECIFIC FACILITIES.—The requirement under
9 subsection (a) shall include at a minimum, reopening, or
10 restoring, the following facilities:

11 (1) Irwin County Detention Center in Georgia.

12 (2) C. Carlos Carreiro Immigration Detention
13 Center in Bristol County, Massachusetts.

14 (3) Etowah County Detention Center in Gads-
15 den, Alabama.

16 (4) Glades County Detention Center in Moore
17 Haven, Florida.

18 (5) South Texas Family Residential Center.

19 (c) EXCEPTION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), the Secretary of Homeland Se-
22 curity is authorized to obtain equivalent capacity for
23 detention facilities at locations other than those list-
24 ed in subsection (b).

1 (2) LIMITATION.—The Secretary may not take
2 action under paragraph (1) unless the capacity ob-
3 tained would result in a reduction of time and cost
4 relative to the cost and time otherwise required to
5 obtain such capacity.

6 (3) SOUTH TEXAS FAMILY RESIDENTIAL CEN-
7 TER.—The exception under paragraph (1) shall not
8 apply to the South Texas Family Residential Center.
9 The Secretary shall take all necessary steps to mod-
10 ify and operate the South Texas Family Residential
11 Center in the same manner and capability it was op-
12 erating on January 20, 2021.

13 (d) PERIODIC REPORT.—Not later than 90 days after
14 the date of the enactment of this Act, and every 90 days
15 thereafter until September 30, 2027, the Secretary of
16 Homeland Security shall submit to the appropriate con-
17 gressional committees a detailed plan for and a status re-
18 port on—

19 (1) compliance with the deadline under sub-
20 section (a);

21 (2) the increase in detention capabilities re-
22 quired by this section—

23 (A) for the 90 day period immediately pre-
24 ceding the date such report is submitted; and

1 (B) for the period beginning on the first
2 day of the fiscal year during which the report
3 is submitted, and ending on the date such re-
4 port is submitted;

5 (3) the number of detention beds that were
6 used and the number of available detention beds
7 that were not used during—

8 (A) the 90 day period immediately pre-
9 ceding the date such report is submitted; and

10 (B) the period beginning on the first day
11 of the fiscal year during which the report is
12 submitted, and ending on the date such report
13 is submitted;

14 (4) the number of aliens released due to a lack
15 of available detention beds; and

16 (5) the resources the Department of Homeland
17 Security needs in order to comply with the require-
18 ments under this section.

19 (e) NOTIFICATION.—The Secretary of Homeland Se-
20 curity shall notify Congress, and include with such notifi-
21 cation a detailed description of the resources the Depart-
22 ment of Homeland Security needs in order to detain all
23 aliens whose detention is mandatory or nondiscretionary
24 under the Immigration and Nationality Act (8 U.S.C.
25 1101 et seq.)—

1 (1) not later than 5 days after all U.S. Immi-
2 gration and Customs Enforcement detention facili-
3 ties reach 90 percent of capacity;

4 (2) not later than 5 days after all U.S. Immi-
5 gration and Customs Enforcement detention facili-
6 ties reach 95 percent of capacity; and

7 (3) not later than 5 days after all U.S. Immi-
8 gration and Customs Enforcement detention facili-
9 ties reach full capacity.

10 (f) APPROPRIATE CONGRESSIONAL COMMITTEES.—

11 In this section, the term “appropriate congressional com-
12 mittees” means—

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

15 (2) the Committee on Appropriations of the
16 House of Representatives;

17 (3) the Committee on the Judiciary of the Sen-
18 ate; and

19 (4) the Committee on Appropriations of the
20 Senate.

1 **TITLE III—PREVENTING UNCON-**
2 **TROLLED MIGRATION FLOWS**
3 **IN THE WESTERN HEMI-**
4 **SPHERE**

5 **SEC. 301. UNITED STATES POLICY REGARDING WESTERN**
6 **HEMISPHERE COOPERATION ON IMMIGRA-**
7 **TION AND ASYLUM.**

8 It is the policy of the United States to enter into
9 agreements, accords, and memoranda of understanding
10 with countries in the Western Hemisphere, the purposes
11 of which are to advance the interests of the United States
12 by reducing costs associated with illegal immigration and
13 to protect the human capital, societal traditions, and eco-
14 nomic growth of other countries in the Western Hemi-
15 sphere. It is further the policy of the United States to
16 ensure that humanitarian and development assistance
17 funding aimed at reducing illegal immigration is not ex-
18 pended on programs that have not proven to reduce illegal
19 immigrant flows in the aggregate.

20 **SEC. 302. NEGOTIATIONS BY SECRETARY OF STATE.**

21 (a) **AUTHORIZATION TO NEGOTIATE.**—The Secretary
22 of State shall seek to negotiate agreements, accords, and
23 memoranda of understanding between the United States,
24 Mexico, Honduras, El Salvador, Guatemala, and other
25 countries in the Western Hemisphere with respect to co-

1 operation and burden sharing required for effective re-
2 gional immigration enforcement, expediting legal claims by
3 aliens for asylum, and the processing, detention, and repa-
4 triation of foreign nationals seeking to enter the United
5 States unlawfully. Such agreements shall be designed to
6 facilitate a regional approach to immigration enforcement
7 and shall, at a minimum, provide that—

8 (1) the Government of Mexico authorize and ac-
9 cept the rapid entrance into Mexico of nationals of
10 countries other than Mexico who seek asylum in
11 Mexico, and process the asylum claims of such na-
12 tionals inside Mexico, in accordance with both do-
13 mestic law and international treaties and conven-
14 tions governing the processing of asylum claims;

15 (2) the Government of Mexico authorize and ac-
16 cept both the rapid entrance into Mexico of all na-
17 tionals of countries other than Mexico who are ineli-
18 gible for asylum in Mexico and wish to apply for
19 asylum in the United States, whether or not at a
20 port of entry, and the continued presence of such
21 nationals in Mexico while they wait for the adjudica-
22 tion of their asylum claims to conclude in the United
23 States;

1 (3) the Government of Mexico commit to pro-
2 vide the individuals described in paragraphs (1) and
3 (2) with appropriate humanitarian protections;

4 (4) the Government of Honduras, the Govern-
5 ment of El Salvador, and the Government of Guate-
6 mala each authorize and accept the entrance into
7 the respective countries of nationals of other coun-
8 tries seeking asylum in the applicable such country
9 and process such claims in accordance with applica-
10 ble domestic law and international treaties and con-
11 ventions governing the processing of asylum claims;

12 (5) the Government of the United States com-
13 mit to work to accelerate the adjudication of asylum
14 claims and to conclude removal proceedings in the
15 wake of asylum adjudications as expeditiously as
16 possible;

17 (6) the Government of the United States com-
18 mit to continue to assist the governments of coun-
19 tries in the Western Hemisphere, such as the Gov-
20 ernment of Honduras, the Government of El Sal-
21 vador, and the Government of Guatemala, by sup-
22 porting the enhancement of asylum capacity in those
23 countries; and

24 (7) the Government of the United States com-
25 mit to monitoring developments in hemispheric im-

1 migration trends and regional asylum capabilities to
2 determine whether additional asylum cooperation
3 agreements are warranted.

4 (b) NOTIFICATION IN ACCORDANCE WITH CASE-ZA-
5 BLOCKI ACT.—The Secretary of State shall, in accordance
6 with section 112b of title 1, United States Code, promptly
7 inform the relevant congressional committees of each
8 agreement entered into pursuant to subsection (a). Such
9 notifications shall be submitted not later than 48 hours
10 after such agreements are signed.

11 (c) ALIEN DEFINED.—In this section, the term
12 “alien” has the meaning given such term in section 101
13 of the Immigration and Nationality Act (8 U.S.C. 1101).

14 **SEC. 303. MANDATORY BRIEFINGS ON UNITED STATES EF-**
15 **FORTS TO ADDRESS THE BORDER CRISIS.**

16 (a) BRIEFING REQUIRED.—Not later than 90 days
17 after the date of the enactment of this Act, and not less
18 frequently than once every 90 days thereafter until the
19 date described in subsection (b), the Secretary of State,
20 or the designee of the Secretary of State, shall provide
21 to the appropriate congressional committees an in-person
22 briefing on efforts undertaken pursuant to the negotiation
23 authority provided by section 302 of this title to monitor,
24 deter, and prevent illegal immigration to the United
25 States, including by entering into agreements, accords,

1 and memoranda of understanding with foreign countries
2 and by using United States foreign assistance to stem the
3 root causes of migration in the Western Hemisphere.

4 (b) TERMINATION OF MANDATORY BRIEFING.—The
5 date described in this subsection is the date on which the
6 Secretary of State, in consultation with the heads of other
7 relevant Federal departments and agencies, determines
8 and certifies to the appropriate congressional committees
9 that illegal immigration flows have subsided to a manage-
10 able rate.

11 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
12 FINED.—In this section, the term “appropriate congres-
13 sional committees” means the Committee on Foreign Af-
14 fairs of the House of Representatives and the Committee
15 on Foreign Relations of the Senate.

16 **TITLE IV—ENSURING UNITED** 17 **FAMILIES AT THE BORDER**

18 **SEC. 401. CLARIFICATION OF STANDARDS FOR FAMILY DE-** 19 **TENTION.**

20 (a) IN GENERAL.—Section 235 of the William Wil-
21 berforce Trafficking Victims Protection Reauthorization
22 Act of 2008 (8 U.S.C. 1232) is amended by adding at
23 the end the following:

24 “(j) CONSTRUCTION.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, judicial determination, consent de-
3 cree, or settlement agreement, the detention of any
4 alien child who is not an unaccompanied alien child
5 shall be governed by sections 217, 235, 236, and
6 241 of the Immigration and Nationality Act (8
7 U.S.C. 1187, 1225, 1226, and 1231). There is no
8 presumption that an alien child who is not an unac-
9 companied alien child should not be detained.

10 “(2) FAMILY DETENTION.—The Secretary of
11 Homeland Security shall—

12 “(A) maintain the care and custody of an
13 alien, during the period during which the
14 charges described in clause (i) are pending,
15 who—

16 “(i) is charged only with a mis-
17 demeanor offense under section 275(a) of
18 the Immigration and Nationality Act (8
19 U.S.C. 1325(a)); and

20 “(ii) entered the United States with
21 the alien’s child who has not attained 18
22 years of age; and

23 “(B) detain the alien with the alien’s
24 child.”.

1 (b) SENSE OF CONGRESS.—It is the sense of Con-
2 gress that the amendments in this section to section 235
3 of the William Wilberforce Trafficking Victims Protection
4 Reauthorization Act of 2008 (8 U.S.C. 1232) are intended
5 to satisfy the requirements of the Settlement Agreement
6 in *Flores v. Meese*, No. 85–4544 (C.D. Cal), as approved
7 by the court on January 28, 1997, with respect to its in-
8 terpretation in *Flores v. Johnson*, 212 F. Supp. 3d 864
9 (C.D. Cal. 2015), that the agreement applies to accom-
10 panied minors.

11 (c) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect on the date of the enact-
13 ment of this Act and shall apply to all actions that occur
14 before, on, or after such date.

15 (d) PREEMPTION OF STATE LICENSING REQUIRE-
16 MENTS.—Notwithstanding any other provision of law, ju-
17 dicial determination, consent decree, or settlement agree-
18 ment, no State may require that an immigration detention
19 facility used to detain children who have not attained 18
20 years of age, or families consisting of one or more of such
21 children and the parents or legal guardians of such chil-
22 dren, that is located in that State, be licensed by the State
23 or any political subdivision thereof.

1 **TITLE V—PROTECTION OF**
2 **CHILDREN**

3 **SEC. 501. FINDINGS.**

4 Congress makes the following findings:

5 (1) Implementation of the provisions of the
6 Trafficking Victims Protection Reauthorization Act
7 of 2008 that govern unaccompanied alien children
8 has incentivized multiple surges of unaccompanied
9 alien children arriving at the southwest border in the
10 years since the bill's enactment.

11 (2) The provisions of the Trafficking Victims
12 Protection Reauthorization Act of 2008 that govern
13 unaccompanied alien children treat unaccompanied
14 alien children from countries that are contiguous to
15 the United States disparately by swiftly returning
16 them to their home country absent indications of
17 trafficking or a credible fear of return, but allowing
18 for the release of unaccompanied alien children from
19 noncontiguous countries into the interior of the
20 United States, often to those individuals who paid to
21 smuggle them into the country in the first place.

22 (3) The provisions of the Trafficking Victims
23 Protection Reauthorization Act of 2008 governing
24 unaccompanied alien children have enriched the car-
25 tels, who profit hundreds of millions of dollars each

1 year by smuggling unaccompanied alien children to
2 the southwest border, exploiting and sexually abus-
3 ing many such unaccompanied alien children on the
4 perilous journey.

5 (4) Prior to 2008, the number of unaccom-
6 panied alien children encountered at the southwest
7 border never exceeded 1,000 in a single year.

8 (5) The United States is currently in the midst
9 of the worst crisis of unaccompanied alien children
10 in our nation's history, with over 350,000 such un-
11 accompanied alien children encountered at the
12 southwest border since Joe Biden became President.

13 (6) In 2022, during the Biden Administration,
14 152,057 unaccompanied alien children were encoun-
15 tered, the most ever in a single year and an over
16 400 percent increase compared to the last full fiscal
17 year of the Trump Administration in which 33,239
18 unaccompanied alien children were encountered.

19 (7) The Biden Administration has lost contact
20 with at least 85,000 unaccompanied alien children
21 who entered the United States since Joe Biden took
22 office.

23 (8) The Biden Administration dismantled effec-
24 tive safeguards put in place by the Trump Adminis-
25 tration that protected unaccompanied alien children

1 from being abused by criminals or exploited for ille-
2 gal and dangerous child labor.

3 (9) A recent New York Times investigation
4 found that unaccompanied alien children are being
5 exploited in the labor market and “are ending up in
6 some of the most punishing jobs in the country.”.

7 (10) The Times investigation found unaccom-
8 panied alien children, “under intense pressure to
9 earn money” in order to “send cash back to their
10 families while often being in debt to their sponsors
11 for smuggling fees, rent, and living expenses,”
12 feared “that they had become trapped in cir-
13 cumstances they never could have imagined.”.

14 (11) The Biden Administration’s Department of
15 Health and Human Services Secretary Xavier
16 Becerra compared placing unaccompanied alien chil-
17 dren with sponsors, to widgets in an assembly line,
18 stating that, “If Henry Ford had seen this in his
19 plant, he would have never become famous and rich.
20 This is not the way you do an assembly line.”.

21 (12) Department of Health and Human Serv-
22 ices employees working under Secretary Xavier
23 Becerra’s leadership penned a July 2021 memo-
24 randum expressing serious concern that “labor traf-
25 ficking was increasing” and that the agency had be-

1 come “one that rewards individuals for making quick
2 releases, and not one that rewards individuals for
3 preventing unsafe releases.”.

4 (13) Despite this, Secretary Xavier Becerra
5 pressured then-Director of the Office of Refugee Re-
6 settlement Cindy Huang to prioritize releases of un-
7 accompanied alien children over ensuring their safe-
8 ty, telling her “if she could not increase the number
9 of discharges he would find someone who could” and
10 then-Director Huang resigned one month later.

11 (14) In June 2014, the Obama-Biden Adminis-
12 tration requested legal authority to exercise discre-
13 tion in returning and removing unaccompanied alien
14 children from non-contiguous countries back to their
15 home countries.

16 (15) In August 2014, the House of Representa-
17 tives passed H.R. 5320, which included the Protec-
18 tion of Children Act.

19 (16) This title ends the disparate policies of the
20 Trafficking Victims Protection Reauthorization Act
21 of 2008 by ensuring the swift return of all unaccom-
22 panied alien children to their country of origin if
23 they are not victims of trafficking and do not have
24 a fear of return.

1 **SEC. 502. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
2 **DREN.**

3 (a) IN GENERAL.—Section 235 of the William Wil-
4 berforce Trafficking Victims Protection Reauthorization
5 Act of 2008 (8 U.S.C. 1232) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (2)—

8 (i) by amending the heading to read
9 as follows: “RULES FOR UNACCOMPANIED
10 ALIEN CHILDREN.—”;

11 (ii) in subparagraph (A)—

12 (I) in the matter preceding clause
13 (i), by striking “who is a national or
14 habitual resident of a country that is
15 contiguous with the United States”;

16 (II) in clause (i), by inserting
17 “and” at the end;

18 (III) in clause (ii), by striking “;
19 and” and inserting a period; and

20 (IV) by striking clause (iii); and
21 (iii) in subparagraph (B)—

22 (I) in the matter preceding clause
23 (i), by striking “(8 U.S.C. 1101 et
24 seq.) may—” and inserting “(8
25 U.S.C. 1101 et seq.)—”;

1 (II) in clause (i), by inserting be-
2 fore “permit such child to withdraw”
3 the following: “may”; and

4 (III) in clause (ii), by inserting
5 before “return such child” the fol-
6 lowing: “shall”; and

7 (B) in paragraph (5)(D)—

8 (i) in the matter preceding clause (i),
9 by striking “, except for an unaccompanied
10 alien child from a contiguous country sub-
11 ject to exceptions under subsection (a)(2),”
12 and inserting “who does not meet the cri-
13 teria listed in paragraph (2)(A)”; and

14 (ii) in clause (i), by inserting before
15 the semicolon at the end the following: “,
16 which shall include a hearing before an im-
17 migration judge not later than 14 days
18 after being screened under paragraph (4)”; and

19 (2) in subsection (b)—

20 (A) in paragraph (2)—

21 (i) in subparagraph (A), by inserting
22 before the semicolon the following: “be-
23 lieved not to meet the criteria listed in sub-
24 section (a)(2)(A)”; and

1 (ii) in subparagraph (B), by inserting
2 before the period the following: “and does
3 not meet the criteria listed in subsection
4 (a)(2)(A)”;

5 (B) in paragraph (3), by striking “an un-
6 accompanied alien child in custody shall” and
7 all that follows, and inserting the following: “an
8 unaccompanied alien child in custody—

9 “(A) in the case of a child who does not
10 meet the criteria listed in subsection (a)(2)(A),
11 shall transfer the custody of such child to the
12 Secretary of Health and Human Services not
13 later than 30 days after determining that such
14 child is an unaccompanied alien child who does
15 not meet such criteria; or

16 “(B) in the case of a child who meets the
17 criteria listed in subsection (a)(2)(A), may
18 transfer the custody of such child to the Sec-
19 retary of Health and Human Services after de-
20 termining that such child is an unaccompanied
21 alien child who meets such criteria.”;

22 (3) in subsection (c)—

23 (A) in paragraph (3), by inserting at the
24 end the following:

1 “(D) INFORMATION ABOUT INDIVIDUALS
2 WITH WHOM CHILDREN ARE PLACED.—

3 “(i) INFORMATION TO BE PROVIDED
4 TO HOMELAND SECURITY.—Before placing
5 a child with an individual, the Secretary of
6 Health and Human Services shall provide
7 to the Secretary of Homeland Security, re-
8 garding the individual with whom the child
9 will be placed, information on—

10 “(I) the name of the individual;

11 “(II) the social security number
12 of the individual;

13 “(III) the date of birth of the in-
14 dividual;

15 “(IV) the location of the individ-
16 ual’s residence where the child will be
17 placed;

18 “(V) the immigration status of
19 the individual, if known; and

20 “(VI) contact information for the
21 individual.

22 “(ii) ACTIVITIES OF THE SECRETARY
23 OF HOMELAND SECURITY.—Not later than
24 30 days after receiving the information
25 listed in clause (i), the Secretary of Home-

1 land Security, upon determining that an
2 individual with whom a child is placed is
3 unlawfully present in the United States
4 and not in removal proceedings pursuant
5 to chapter 4 of title II of the Immigration
6 and Nationality Act (8 U.S.C. 1221 et
7 seq.), shall initiate such removal pro-
8 ceedings.”; and

9 (B) in paragraph (5)—

10 (i) by inserting after “to the greatest
11 extent practicable” the following: “(at no
12 expense to the Government)”; and

13 (ii) by striking “have counsel to rep-
14 resent them” and inserting “have access to
15 counsel to represent them”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to any unaccompanied alien child
18 (as such term is defined in section 462(g) of the Home-
19 land Security Act of 2002 (6 U.S.C. 279(g))) apprehended
20 on or after the date that is 30 days after the date of the
21 enactment of this Act.

1 **SEC. 503. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
2 **MIGRANTS UNABLE TO REUNITE WITH EI-**
3 **THEIR PARENT.**

4 Section 101(a)(27)(J) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

6 (1) in clause (i), by striking “, and whose reuni-
7 fication with 1 or both of the immigrant’s parents
8 is not viable due to abuse, neglect, abandonment, or
9 a similar basis found under State law”; and

10 (2) in clause (iii)—

11 (A) in subclause (I), by striking “and” at
12 the end;

13 (B) in subclause (II), by inserting “and”
14 after the semicolon; and

15 (C) by adding at the end the following:

16 “(III) an alien may not be grant-
17 ed special immigrant status under this
18 subparagraph if the alien’s reunifica-
19 tion with any one parent or legal
20 guardian is not precluded by abuse,
21 neglect, abandonment, or any similar
22 cause under State law;”.

23 **SEC. 504. RULE OF CONSTRUCTION.**

24 Nothing in this title shall be construed to limit the
25 following procedures or practices relating to an unaccom-

1 panied alien child (as defined in section 462(g)(2) of the
2 Homeland Security Act of 2002 (6 U.S.C. 279(g)(2))):

3 (1) Screening of such a child for a credible fear
4 of return to his or her country of origin.

5 (2) Screening of such a child to determine
6 whether he or she was a victim of trafficking.

7 (3) Department of Health and Human Services
8 policy in effect on the date of the enactment of this
9 Act requiring a home study for such a child if he or
10 she is under 12 years of age.

11 **TITLE VI—VISA OVERSTAYS** 12 **PENALTIES**

13 **SEC. 601. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR** 14 **PRESENCE.**

15 Section 275 of the Immigration and Nationality Act
16 (8 U.S.C. 1325) is amended—

17 (1) in subsection (a) by inserting after “for a
18 subsequent commission of any such offense” the fol-
19 lowing: “or if the alien was previously convicted of
20 an offense under subsection (e)(2)(A)”;

21 (2) in subsection (b)—

22 (A) in paragraph (1), by striking “at least
23 \$50 and not more than \$250” and inserting
24 “not less than \$500 and not more than
25 \$1,000”; and

1 (B) in paragraph (2), by inserting after
2 “in the case of an alien who has been previously
3 subject to a civil penalty under this subsection”
4 the following: “or subsection (e)(2)(B)”; and
5 (3) by adding at the end the following:

6 “(e) VISA OVERSTAYS.—

7 “(1) IN GENERAL.—An alien who was admitted
8 as a nonimmigrant has violated this paragraph if the
9 alien, for an aggregate of 10 days or more, has
10 failed—

11 “(A) to maintain the nonimmigrant status
12 in which the alien was admitted, or to which it
13 was changed under section 248, including com-
14 plying with the period of stay authorized by the
15 Secretary of Homeland Security in connection
16 with such status; or

17 “(B) to comply otherwise with the condi-
18 tions of such nonimmigrant status.

19 “(2) PENALTIES.—An alien who has violated
20 paragraph (1)—

21 “(A) shall—

22 “(i) for the first commission of such a
23 violation, be fined under title 18, United
24 States Code, or imprisoned not more than
25 6 months, or both; and

1 “(ii) for a subsequent commission of
2 such a violation, or if the alien was pre-
3 viously convicted of an offense under sub-
4 section (a), be fined under such title 18, or
5 imprisoned not more than 2 years, or both;
6 and

7 “(B) in addition to, and not in lieu of, any
8 penalty under subparagraph (A) and any other
9 criminal or civil penalties that may be imposed,
10 shall be subject to a civil penalty of—

11 “(i) not less than \$500 and not more
12 than \$1,000 for each violation; or

13 “(ii) twice the amount specified in
14 clause (i), in the case of an alien who has
15 been previously subject to a civil penalty
16 under this subparagraph or subsection
17 (b).”.

18 **TITLE VII—IMMIGRATION**

19 **PAROLE REFORM**

20 **SEC. 701. IMMIGRATION PAROLE REFORM.**

21 Section 212(d)(5) of the Immigration and Nationality
22 Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

23 “(5)(A) Except as provided in subparagraphs (B)
24 and (C) and section 214(f), the Secretary of Homeland
25 Security, in the discretion of the Secretary, may tempo-

1 rarely parole into the United States any alien applying for
2 admission to the United States who is not present in the
3 United States, under such conditions as the Secretary may
4 prescribe, on a case-by-case basis, and not according to
5 eligibility criteria describing an entire class of potential
6 parole recipients, for urgent humanitarian reasons or sig-
7 nificant public benefit. Parole granted under this subpara-
8 graph may not be regarded as an admission of the alien.
9 When the purposes of such parole have been served in the
10 opinion of the Secretary, the alien shall immediately re-
11 turn or be returned to the custody from which the alien
12 was paroled. After such return, the case of the alien shall
13 be dealt with in the same manner as the case of any other
14 applicant for admission to the United States.

15 “(B) The Secretary of Homeland Security may grant
16 parole to any alien who—

17 “(i) is present in the United States without
18 lawful immigration status;

19 “(ii) is the beneficiary of an approved petition
20 under section 203(a);

21 “(iii) is not otherwise inadmissible or remov-
22 able; and

23 “(iv) is the spouse or child of a member of the
24 Armed Forces serving on active duty.

1 “(C) The Secretary of Homeland Security may grant
2 parole to any alien—

3 “(i) who is a national of the Republic of Cuba
4 and is living in the Republic of Cuba;

5 “(ii) who is the beneficiary of an approved peti-
6 tion under section 203(a);

7 “(iii) for whom an immigrant visa is not imme-
8 diately available;

9 “(iv) who meets all eligibility requirements for
10 an immigrant visa;

11 “(v) who is not otherwise inadmissible; and

12 “(vi) who is receiving a grant of parole in fur-
13 therance of the commitment of the United States to
14 the minimum level of annual legal migration of
15 Cuban nationals to the United States specified in
16 the U.S.-Cuba Joint Communiqué on Migration,
17 done at New York September 9, 1994, and re-
18 affirmed in the Cuba-United States: Joint Statement
19 on Normalization of Migration, Building on the
20 Agreement of September 9, 1994, done at New York
21 May 2, 1995.

22 “(D) The Secretary of Homeland Security may grant
23 parole to an alien who is returned to a contiguous country
24 under section 235(b)(3) to allow the alien to attend the
25 alien’s immigration hearing. The grant of parole shall not

1 exceed the time required for the alien to be escorted to,
2 and attend, the alien's immigration hearing scheduled on
3 the same calendar day as the grant, and to immediately
4 thereafter be escorted back to the contiguous country. A
5 grant of parole under this subparagraph shall not be con-
6 sidered for purposes of determining whether the alien is
7 inadmissible under this Act.

8 “(E) For purposes of determining an alien's eligi-
9 bility for parole under subparagraph (A), an urgent hu-
10 manitarian reason shall be limited to circumstances in
11 which the alien establishes that—

12 “(i)(I) the alien has a medical emergency; and

13 “(II)(aa) the alien cannot obtain necessary
14 treatment in the foreign state in which the alien is
15 residing; or

16 “(bb) the medical emergency is life-threatening
17 and there is insufficient time for the alien to be ad-
18 mitted to the United States through the normal visa
19 process;

20 “(ii) the alien is the parent or legal guardian of
21 an alien described in clause (i) and the alien de-
22 scribed in clause (i) is a minor;

23 “(iii) the alien is needed in the United States
24 in order to donate an organ or other tissue for
25 transplant and there is insufficient time for the alien

1 to be admitted to the United States through the nor-
2 mal visa process;

3 “(iv) the alien has a close family member in the
4 United States whose death is imminent and the alien
5 could not arrive in the United States in time to see
6 such family member alive if the alien were to be ad-
7 mitted to the United States through the normal visa
8 process;

9 “(v) the alien is seeking to attend the funeral
10 of a close family member and the alien could not ar-
11 rive in the United States in time to attend such fu-
12 neral if the alien were to be admitted to the United
13 States through the normal visa process;

14 “(vi) the alien is an adopted child with an ur-
15 gent medical condition who is in the legal custody of
16 the petitioner for a final adoption-related visa and
17 whose medical treatment is required before the ex-
18 pected award of a final adoption-related visa; or

19 “(vii) the alien is a lawful applicant for adjust-
20 ment of status under section 245 and is returning
21 to the United States after temporary travel abroad.

22 “(F) For purposes of determining an alien’s eligi-
23 bility for parole under subparagraph (A), a significant
24 public benefit may be determined to result from the parole
25 of an alien only if—

1 “(i) the alien has assisted (or will assist, wheth-
2 er knowingly or not) the United States Government
3 in a law enforcement matter;

4 “(ii) the alien’s presence is required by the Gov-
5 ernment in furtherance of such law enforcement
6 matter; and

7 “(iii) the alien is inadmissible, does not satisfy
8 the eligibility requirements for admission as a non-
9 immigrant, or there is insufficient time for the alien
10 to be admitted to the United States through the nor-
11 mal visa process.

12 “(G) For purposes of determining an alien’s eligi-
13 bility for parole under subparagraph (A), the term ‘case-
14 by-case basis’ means that the facts in each individual case
15 are considered and parole is not granted based on mem-
16 bership in a defined class of aliens to be granted parole.
17 The fact that aliens are considered for or granted parole
18 one-by-one and not as a group is not sufficient to establish
19 that the parole decision is made on a ‘case-by-case basis’.

20 “(H) The Secretary of Homeland Security may not
21 use the parole authority under this paragraph to parole
22 an alien into the United States for any reason or purpose
23 other than those described in subparagraphs (B), (C), (D),
24 (E), and (F).

1 “(I) An alien granted parole may not accept employ-
2 ment, except that an alien granted parole pursuant to sub-
3 paragraph (B) or (C) is authorized to accept employment
4 for the duration of the parole, as evidenced by an employ-
5 ment authorization document issued by the Secretary of
6 Homeland Security.

7 “(J) Parole granted after a departure from the
8 United States shall not be regarded as an admission of
9 the alien. An alien granted parole, whether as an initial
10 grant of parole or parole upon reentry into the United
11 States, is not eligible to adjust status to lawful permanent
12 residence or for any other immigration benefit if the immi-
13 gration status the alien had at the time of departure did
14 not authorize the alien to adjust status or to be eligible
15 for such benefit.

16 “(K)(i) Except as provided in clauses (ii) and (iii),
17 parole shall be granted to an alien under this paragraph
18 for the shorter of—

19 “(I) a period of sufficient length to accomplish
20 the activity described in subparagraph (D), (E), or
21 (F) for which the alien was granted parole; or

22 “(II) 1 year.

23 “(ii) Grants of parole pursuant to subparagraph (A)
24 may be extended once, in the discretion of the Secretary,
25 for an additional period that is the shorter of—

1 “(I) the period that is necessary to accomplish
2 the activity described in subparagraph (E) or (F) for
3 which the alien was granted parole; or

4 “(II) 1 year.

5 “(iii) Aliens who have a pending application to adjust
6 status to permanent residence under section 245 may re-
7 quest extensions of parole under this paragraph, in 1-year
8 increments, until the application for adjustment has been
9 adjudicated. Such parole shall terminate immediately upon
10 the denial of such adjustment application.

11 “(L) Not later than 90 days after the last day of each
12 fiscal year, the Secretary of Homeland Security shall sub-
13 mit to the Committee on the Judiciary of the Senate and
14 the Committee on the Judiciary of the House of Rep-
15 resentatives and make available to the public, a report—

16 “(i) identifying the total number of aliens pa-
17 roled into the United States under this paragraph
18 during the previous fiscal year; and

19 “(ii) containing information and data regarding
20 all aliens paroled during such fiscal year, includ-
21 ing—

22 “(I) the duration of parole;

23 “(II) the type of parole; and

24 “(III) the current status of the aliens so
25 paroled.”.

1 **SEC. 702. IMPLEMENTATION.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), this title and the amendments made by this title shall
4 take effect on the date that is 30 days after the date of
5 the enactment of this Act.

6 (b) EXCEPTIONS.—Notwithstanding subsection (a),
7 each of the following exceptions apply:

8 (1) Any application for parole or advance parole
9 filed by an alien before the date of the enactment of
10 this Act shall be adjudicated under the law that was
11 in effect on the date on which the application was
12 properly filed and any approved advance parole shall
13 remain valid under the law that was in effect on the
14 date on which the advance parole was approved.

15 (2) Section 212(d)(5)(J) of the Immigration
16 and Nationality Act, as added by section 701 of this
17 title, shall take effect on the date of the enactment
18 of this Act.

19 (3) Aliens who were paroled into the United
20 States pursuant to section 212(d)(5)(A) of the Im-
21 migration and Nationality Act (8 U.S.C.
22 1182(d)(5)(A)) before January 1, 2023, shall con-
23 tinue to be subject to the terms of parole that were
24 in effect on the date on which their respective parole
25 was approved.

1 **SEC. 703. CAUSE OF ACTION.**

2 Any person, State, or local government that experi-
3 ences financial harm in excess of \$1,000 due to a failure
4 of the Federal Government to lawfully apply the provisions
5 of this title or the amendments made by this title shall
6 have standing to bring a civil action against the Federal
7 Government in an appropriate district court of the United
8 States for appropriate relief.

9 **SEC. 704. SEVERABILITY.**

10 If any provision of this title or any amendment by
11 this title, or the application of such provision or amend-
12 ment to any person or circumstance, is held to be uncon-
13 stitutional, the remainder of this title and the application
14 of such provision or amendment to any other person or
15 circumstance shall not be affected.