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AN ACT

To secure the borders of the United States, and for other purposes.

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Secure the Border Act of 2023”.

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

Sec. 1. Short title; table of contents.

DIVISION A—BORDER SECURITY

Sec. 101. Definitions.

Sec. 102. Border wall construction.

- Sec. 103. Strengthening the requirements for barriers along the southern border.
- Sec. 104. Border and port security technology investment plan.
- Sec. 105. Border security technology program management.
- Sec. 106. U.S. Customs and Border Protection technology upgrades.
- Sec. 107. U.S. Customs and Border Protection personnel.
- Sec. 108. Anti-Border Corruption Act reauthorization.
- Sec. 109. Establishment of workload staffing models for U.S. Border Patrol and Air and Marine Operations of CBP.
- Sec. 110. Operation Stonegarden.
- Sec. 111. Air and Marine Operations flight hours.
- Sec. 112. Eradication of carrizo cane and salt cedar.
- Sec. 113. Border patrol strategic plan.
- Sec. 114. U.S. Customs and Border Protection spiritual readiness.
- Sec. 115. Restrictions on funding.
- Sec. 116. Collection of DNA and biometric information at the border.
- Sec. 117. Eradication of narcotic drugs and formulating effective new tools to address yearly losses of life; ensuring timely updates to U.S. Customs and Border Protection field manuals.
- Sec. 118. Publication by U.S. Customs and Border Protection of operational statistics.
- Sec. 119. Alien criminal background checks.
- Sec. 120. Prohibited identification documents at airport security checkpoints; notification to immigration agencies.
- Sec. 121. Prohibition against any COVID–19 vaccine mandate or adverse action against DHS employees.
- Sec. 122. CBP One app limitation.
- Sec. 123. Report on Mexican drug cartels.
- Sec. 124. GAO study on costs incurred by States to secure the southwest border.
- Sec. 125. Report by Inspector General of the Department of Homeland Security.
- Sec. 126. Offsetting authorizations of appropriations.
- Sec. 127. Report to Congress on foreign terrorist organizations.
- Sec. 128. Assessment by Inspector General of the Department of Homeland Security on the mitigation of unmanned aircraft systems at the southwest border.

DIVISION B—IMMIGRATION ENFORCEMENT AND FOREIGN AFFAIRS

TITLE I—ASYLUM REFORM AND BORDER PROTECTION

- Sec. 101. Safe third country.
- Sec. 102. Credible fear interviews.
- Sec. 103. Clarification of asylum eligibility.
- Sec. 104. Exceptions.
- Sec. 105. Employment authorization.
- Sec. 106. Asylum fees.
- Sec. 107. Rules for determining asylum eligibility.
- Sec. 108. Firm resettlement.
- Sec. 109. Notice concerning frivolous asylum applications.
- Sec. 110. Technical amendments.
- Sec. 111. Requirement for procedures relating to certain asylum applications.

TITLE II—BORDER SAFETY AND MIGRANT PROTECTION

- Sec. 201. Inspection of applicants for admission.
- Sec. 202. Operational detention facilities.

TITLE III—PREVENTING UNCONTROLLED MIGRATION FLOWS IN THE WESTERN HEMISPHERE

- Sec. 301. United States policy regarding Western Hemisphere cooperation on immigration and asylum.
- Sec. 302. Negotiations by Secretary of State.
- Sec. 303. Mandatory briefings on United States efforts to address the border crisis.

TITLE IV—ENSURING UNITED FAMILIES AT THE BORDER

- Sec. 401. Clarification of standards for family detention.

TITLE V—PROTECTION OF CHILDREN

- Sec. 501. Findings.
- Sec. 502. Repatriation of unaccompanied alien children.
- Sec. 503. Special immigrant juvenile status for immigrants unable to reunite with either parent.
- Sec. 504. Rule of construction.

TITLE VI—VISA OVERSTAYS PENALTIES

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

TITLE VII—IMMIGRATION PAROLE REFORM

- Sec. 701. Immigration parole reform.
- Sec. 702. Implementation.
- Sec. 703. Cause of action.
- Sec. 704. Severability.

TITLE VIII—LEGAL WORKFORCE

- Sec. 801. Employment eligibility verification process.
- Sec. 802. Employment eligibility verification system.
- Sec. 803. Recruitment, referral, and continuation of employment.
- Sec. 804. Good faith defense.
- Sec. 805. Preemption and States' rights.
- Sec. 806. Repeal.
- Sec. 807. Penalties.
- Sec. 808. Fraud and misuse of documents.
- Sec. 809. Protection of Social Security Administration programs.
- Sec. 810. Fraud prevention.
- Sec. 811. Use of employment eligibility verification photo tool.
- Sec. 812. Identity authentication employment eligibility verification pilot programs.
- Sec. 813. Inspector General audits.
- Sec. 814. Agriculture workforce study.
- Sec. 815. Sense of Congress on further implementation.
- Sec. 816. Repealing regulations.

1 **DIVISION A—BORDER SECURITY**

2 **SEC. 101. DEFINITIONS.**

3 In this division:

4 (1) **CBP.**—The term “CBP” means U.S. Cus-
5 toms and Border Protection.

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

9 (3) **DEPARTMENT.**—The term “Department”
10 means the Department of Homeland Security.

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

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

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

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

1 **SEC. 102. BORDER WALL CONSTRUCTION.**

2 (a) IN GENERAL.—

3 (1) IMMEDIATE RESUMPTION OF BORDER WALL
4 CONSTRUCTION.—Not later than seven days after
5 the date of the enactment of this Act, the Secretary
6 shall resume all activities related to the construction
7 of the border wall along the border between the
8 United States and Mexico that were underway or
9 being planned for prior to January 20, 2021.

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

16 (3) USE OF MATERIALS.—Any unused materials
17 purchased before the date of the enactment of this
18 Act for construction of the border wall may be used
19 for activities related to the construction of the bor-
20 der wall in accordance with paragraph (1).

21 (b) PLAN TO COMPLETE TACTICAL INFRASTRUC-
22 TURE AND TECHNOLOGY.—Not later than 90 days after
23 the date of the enactment of this Act and annually there-
24 after until construction of the border wall has been com-
25 pleted, the Secretary shall submit to the appropriate con-
26 gressional committees an implementation plan, including

1 annual benchmarks for the construction of 200 miles of
2 such wall and associated cost estimates for satisfying all
3 requirements of the construction of the border wall, in-
4 cluding installation and deployment of tactical infrastruc-
5 ture, technology, and other elements as identified by the
6 Department prior to January 20, 2021, through the ex-
7 penditure of funds appropriated or explicitly obligated, as
8 the case may be, for use, as well as any future funds ap-
9 propriated or otherwise made available by Congress.

10 (c) DEFINITIONS.—In this section:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means the Committee on Homeland Secu-
14 rity and the Committee on Appropriations of the
15 House of Representatives and the Committee on
16 Homeland Security and Governmental Affairs and
17 the Committee on Appropriations of the Senate.

18 (2) TACTICAL INFRASTRUCTURE.—The term
19 “tactical infrastructure” includes boat ramps, access
20 gates, checkpoints, lighting, and roads associated
21 with a border wall.

22 (3) TECHNOLOGY.—The term “technology” in-
23 cludes border surveillance and detection technology,
24 including linear ground detection systems, associated
25 with a border wall.

1 **SEC. 103. STRENGTHENING THE REQUIREMENTS FOR BAR-**
2 **RIERS ALONG THE SOUTHERN BORDER.**

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

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

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

17 (2) in subsection (b)—

18 (A) in the subsection heading, by striking
19 “FENCING AND ROAD IMPROVEMENTS” and in-
20 serting “PHYSICAL BARRIERS”;

21 (B) in paragraph (1)—

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

24 (ii) by amending subparagraph (A) to
25 read as follows:

1 “(A) REINFORCED BARRIERS.—In carrying
2 out this section, the Secretary of Homeland Se-
3 curity shall construct a border wall, including
4 physical barriers, tactical infrastructure, and
5 technology, along not fewer than 900 miles of
6 the southwest border until situational aware-
7 ness and operational control of the southwest
8 border is achieved.”;

9 (iii) by amending subparagraph (B) to
10 read as follows:

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

19 (iv) in subparagraph (C)—

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

22 “(i) IN GENERAL.—In carrying out
23 this section, the Secretary of Homeland
24 Security shall consult with the Secretary of
25 the Interior, the Secretary of Agriculture,

1 appropriate representatives of State, Trib-
2 al, and local governments, and appropriate
3 private property owners in the United
4 States to minimize the impact on natural
5 resources, commerce, and sites of historical
6 or cultural significance for the commu-
7 nities and residents located near the sites
8 at which physical barriers, tactical infra-
9 structure, and technology are to be con-
10 structed. Such consultation may not delay
11 such construction for longer than seven
12 days.”; and

13 (II) in clause (ii)—

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

17 (bb) by amending subclause
18 (II) to read as follows:

19 “(II) delay the transfer to the
20 United States of the possession of
21 property or affect the validity of any
22 property acquisition by the United
23 States by purchase or eminent do-
24 main, or to otherwise affect the emi-

1 nent domain laws of the United States
2 or of any State; or”; and

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

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

7 (v) by striking subparagraph (D);
8 (C) in paragraph (2)—

9 (i) by striking “Attorney General”
10 and inserting “Secretary of Homeland Se-
11 curity”;

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

14 (iii) by striking “construction of
15 fences” and inserting “the construction of
16 physical barriers, tactical infrastructure,
17 and technology”;

18 (D) by amending paragraph (3) to read as
19 follows:

20 “(3) AGENT SAFETY.—In carrying out this sec-
21 tion, the Secretary of Homeland Security, when de-
22 signing, testing, constructing, installing, deploying,
23 integrating, and operating physical barriers, tactical
24 infrastructure, or technology, shall incorporate such
25 safety features into such design, test, construction,

1 installation, deployment, integration, or operation of
2 such physical barriers, tactical infrastructure, or
3 technology, as the case may be, that the Secretary
4 determines are necessary to maximize the safety and
5 effectiveness of officers and agents of the Depart-
6 ment of Homeland Security or of any other Federal
7 agency deployed in the vicinity of such physical bar-
8 riers, tactical infrastructure, or technology.”; and

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

11 (3) in subsection (c)—

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

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

1 (B) by redesignating paragraph (2) as
2 paragraph (3); and

3 (C) by inserting after paragraph (1) the
4 following new paragraph:

5 “(2) NOTIFICATION.—Not later than seven
6 days after the date on which the Secretary of Home-
7 land Security exercises a waiver pursuant to para-
8 graph (1), the Secretary shall notify the Committee
9 on Homeland Security of the House of Representa-
10 tives and the Committee on Homeland Security and
11 Governmental Affairs of the Senate of such waiver.”;
12 and

13 (4) by adding at the end the following new sub-
14 sections:

15 “(e) TECHNOLOGY.—In carrying out this section, the
16 Secretary of Homeland Security shall deploy along the
17 southwest border the most practical and effective tech-
18 nology available for achieving situational awareness and
19 operational control.

20 “(f) DEFINITIONS.—In this section:

21 “(1) ADVANCED UNATTENDED SURVEILLANCE
22 SENSORS.—The term ‘advanced unattended surveil-
23 lance sensors’ means sensors that utilize an onboard
24 computer to analyze detections in an effort to dis-

1 cern between vehicles, humans, and animals, and ul-
2 timately filter false positives prior to transmission.

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

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

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

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

21 “(A) Tower-based surveillance technology.

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

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

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

4 “(E) Advanced unattended surveillance
5 sensors.

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

8 “(G) Unmanned aircraft systems.

9 “(H) Tunnel detection systems and other
10 seismic technology.

11 “(I) Fiber-optic cable.

12 “(J) Other border detection, communica-
13 tion, and surveillance technology.

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. 104. BORDER AND PORT SECURITY TECHNOLOGY IN-**
19 **VESTMENT PLAN.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, the Commissioner, in
22 consultation with covered officials and border and port se-
23 curity technology stakeholders, shall submit to the appro-
24 priate congressional committees a strategic 5-year tech-
25 nology investment plan (in this section referred to as the

1 “plan”). The plan may include a classified annex, if appro-
2 priate.

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

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

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

11 (A) prevent terrorists and instruments of
12 terror from entering the United States;

13 (B) combat and reduce cross-border crimi-
14 nal activity, including—

15 (i) the transport of illegal goods, such
16 as illicit drugs; and

17 (ii) human smuggling and human
18 trafficking; and

19 (C) facilitate the flow of legal trade across
20 the southwest border.

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

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

1 (B) are unlawfully present in the United
2 States.

3 (4) A description of security-related technology
4 acquisitions, to be listed in order of priority, to ad-
5 dress the security risks and capability gaps analyzed
6 and identified pursuant to paragraphs (1) and (2),
7 respectively.

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

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

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

19 (8) An identification and assessment of ways to
20 increase opportunities for communication and col-
21 laboration with the private sector, small and dis-
22 advantaged businesses, intragovernment entities,
23 university centers of excellence, and federal labora-
24 tories to ensure CBP is able to engage with the mar-
25 ket for security-related technologies that are avail-

1 able to satisfy its mission needs before engaging in
2 an acquisition of a security-related technology.

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

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

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

13 (12) A description of initiatives to—

14 (A) streamline the acquisition process of
15 CBP; and

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

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

24 (14) In the case of a new acquisition leading to
25 the removal of equipment from a port of entry along

1 the northern or southern border of the United
2 States, a strategy to consult with the private sector
3 and community stakeholders affected by such re-
4 moval.

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

9 (16) An identification of recent technological
10 advancements in the following:

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

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

16 (C) Surveillance technology, including the
17 following:

18 (i) Mobile surveillance vehicles.

19 (ii) Associated electronics, including
20 cameras, sensor technology, and radar.

21 (iii) Tower-based surveillance tech-
22 nology.

23 (iv) Advanced unattended surveillance
24 sensors.

1 (v) Deployable, lighter-than-air,
2 ground surveillance equipment.

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

6 (E) Tunnel detection technology.

7 (F) Communications equipment, including
8 the following:

9 (i) Radios.

10 (ii) Long-term evolution broadband.

11 (iii) Miniature satellites.

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

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

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

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

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

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

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

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

15 (2) a report that includes—

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

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

25 (g) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Homeland Security
5 and the Committee on Appropriations of the
6 House of Representatives; and

7 (B) the Committee on Homeland Security
8 and Governmental Affairs and the Committee
9 on Appropriations of the Senate.

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

12 (A) the Under Secretary for Management
13 of the Department;

14 (B) the Under Secretary for Science and
15 Technology of the Department; and

16 (C) the Chief Information Officer of the
17 Department.

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

1 **SEC. 105. BORDER SECURITY TECHNOLOGY PROGRAM**
2 **MANAGEMENT.**

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

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

8 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
9 this section, the term ‘major acquisition program’ means
10 an acquisition program of the Department that is esti-
11 mated by the Secretary to require an eventual total ex-
12 penditure of at least \$100,000,000 (based on fiscal year
13 2023 constant dollars) over its life-cycle cost.

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

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

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

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

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

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

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

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

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

7 (b) CLERICAL AMENDMENT.—The table of contents
8 in section 1(b) of the Homeland Security Act of 2002 is
9 amended by inserting after the item relating to section
10 436 the following new item:

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

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

16 **SEC. 106. U.S. CUSTOMS AND BORDER PROTECTION TECH-**
17 **NOLOGY UPGRADES.**

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

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

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

3 (b) BORDER SECURITY DEPLOYMENT PROGRAM.—

4 (1) EXPANSION.—Not later than September 30,
5 2025, the Commissioner shall—

6 (A) fully implement the Border Security
7 Deployment Program of CBP; and

8 (B) expand the integrated surveillance and
9 intrusion detection system at land ports of
10 entry along the northern and southern borders
11 of the United States.

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

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

19 (1) UPGRADE.—Not later than two years after
20 the date of the enactment of this Act, the Commis-
21 sioner shall upgrade all existing license plate readers
22 in need of upgrade, as determined by the Commis-
23 sioner, on the northern and southern borders of the
24 United States.

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

6 **SEC. 107. U.S. CUSTOMS AND BORDER PROTECTION PER-**
7 **SONNEL.**

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

12 (1) whose position is equal to or below level GS-
13 12 of the General Schedule;

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

16 (3) who commits to two years of additional
17 service with the U.S. Border Patrol upon acceptance
18 of such bonus.

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

1 (c) PROHIBITION AGAINST ALIEN TRAVEL.—No per-
2 sonnel or equipment of Air and Marine Operations may
3 be used for the transportation of non-detained aliens, or
4 detained aliens expected to be administratively released
5 upon arrival, from the southwest border to destinations
6 within the United States.

7 (d) GAO REPORT.—If the staffing level required
8 under this section is not achieved by the date associated
9 with such level, the Comptroller General of the United
10 States shall—

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

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

16 **SEC. 108. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-**
17 **TION.**

18 (a) HIRING FLEXIBILITY.—Section 3 of the Anti-
19 Border Corruption Act of 2010 (6 U.S.C. 221; Public Law
20 111–376) is amended by striking subsection (b) and in-
21 serting the following new subsections:

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

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

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

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

13 “(C) is not currently under investigation,
14 has not been found to have engaged in criminal
15 activity or serious misconduct, has not resigned
16 from a law enforcement officer position under
17 investigation or in lieu of termination, and has
18 not been dismissed from a law enforcement offi-
19 cer position;

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

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

1 “(B) is authorized to make arrests, con-
2 duct investigations, conduct searches, make sei-
3 zures, carry firearms, and serve orders, war-
4 rants, and other processes;

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

12 “(D) holds a current Tier 4 background
13 investigation or current Tier 5 background in-
14 vestigation; or

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

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

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

23 “(C) holds, or has undergone within the
24 past five years, a current Tier 4 background in-

1 vestigation or current Tier 5 background inves-
2 tigation;

3 “(D) received, or is eligible to receive, an
4 honorable discharge from service in the Armed
5 Forces and has not engaged in criminal activity
6 or committed a serious military or civil offense
7 under the Uniform Code of Military Justice;
8 and

9 “(E) was not granted any waivers to ob-
10 tain the clearance referred to in subparagraph
11 (B).

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

1 (b) SUPPLEMENTAL COMMISSIONER AUTHORITY;
2 REPORTING; DEFINITIONS.—The Anti-Border Corruption
3 Act of 2010 is amended by adding at the end the following
4 new sections:

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

6 “(a) NONEXEMPTION.—An individual who receives a
7 waiver under section 3(b) is not exempt from any other
8 hiring requirements relating to suitability for employment
9 and eligibility to hold a national security designated posi-
10 tion, as determined by the Commissioner of U.S. Customs
11 and Border Protection.

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

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

1 **“SEC. 6. REPORTING.**

2 “(a) ANNUAL REPORT.—Not later than one year
3 after the date of the enactment of this section and annu-
4 ally thereafter while the waiver authority under section
5 3(b) is in effect, the Commissioner of U.S. Customs and
6 Border Protection shall submit to Congress a report that
7 includes, with respect to each such reporting period, the
8 following:

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

11 “(2) Information relating to the percentage of
12 applicants who were hired after receiving such a
13 waiver.

14 “(3) Information relating to the number of in-
15 stances that a polygraph was administered to an ap-
16 plicant who initially received such a waiver and the
17 results of such polygraph.

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

21 “(5) An identification of additional authorities
22 needed by U.S. Customs and Border Protection to
23 better utilize such waiver authority for its intended
24 goals.

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

1 “(1) An analysis of other methods of employ-
2 ment suitability tests that detect deception and could
3 be used in conjunction with traditional background
4 investigations to evaluate potential applicants or em-
5 ployees for suitability for employment or continued
6 employment, as the case may be.

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

12 **“SEC. 7. DEFINITIONS.**

13 “In this Act:

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

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

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

1 “(B) a punitive discharge is, or would be,
2 authorized for the same or a closely related of-
3 fense under the Manual for Court-Martial, as
4 pursuant to Army Regulation 635–200, chapter
5 14–12.

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

10 “(4) VETERAN.—The term ‘veteran’ has the
11 meaning given such term in section 101(2) of title
12 38, United States Code.”.

13 (c) POLYGRAPH EXAMINERS.—Not later than Sep-
14 tember 30, 2025, the Secretary shall increase to not fewer
15 than 150 the number of trained full-time equivalent poly-
16 graph examiners for administering polygraphs under the
17 Anti-Border Corruption Act of 2010, as amended by this
18 section.

19 **SEC. 109. ESTABLISHMENT OF WORKLOAD STAFFING MOD-**
20 **ELS FOR U.S. BORDER PATROL AND AIR AND**
21 **MARINE OPERATIONS OF CBP.**

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

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

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

4 (2) Air and Marine Operations of CBP.

5 (b) RESPONSIBILITIES OF THE COMMISSIONER.—

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

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

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

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

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

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

7 (c) REPORT.—

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

17 (A) The implementation of such subsection

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

19 (B) Each relevant workload staffing model.

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

1 (d) INSPECTOR GENERAL REVIEW.—Not later than
2 90 days after the Commissioner develops the workload
3 staffing models pursuant to subsection (a), the Inspector
4 General of the Department shall review such models and
5 provide feedback to the Secretary and the appropriate con-
6 gressional committees with respect to the degree to which
7 such models are responsive to the recommendations of the
8 Inspector General, including the following:

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

11 (2) Any further recommendations to improve
12 such models.

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

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

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

20 **SEC. 110. OPERATION STONEGARDEN.**

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

1 **“SEC. 2010. OPERATION STONEGARDEN.**

2 “(a) **ESTABLISHMENT.**—There is established in the
3 Department a program to be known as ‘Operation
4 Stonegarden’, under which the Secretary, acting through
5 the Administrator, shall make grants to eligible law en-
6 forcement agencies, through State administrative agen-
7 cies, to enhance border security in accordance with this
8 section.

9 “(b) **ELIGIBLE RECIPIENTS.**—To be eligible to re-
10 ceive a grant under this section, a law enforcement agency
11 shall—

12 “(1) be located in—

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

14 or

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

17 “(2) be involved in an active, ongoing, U.S.
18 Customs and Border Protection operation coordi-
19 nated through a U.S. Border Patrol sector office;
20 and

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

24 “(c) **PERMITTED USES.**—A recipient of a grant
25 under this section may use such grant for costs associated
26 with the following:

1 “(1) Equipment, including maintenance and
2 sustainment.

3 “(2) Personnel, including overtime and backfill,
4 in support of enhanced border law enforcement ac-
5 tivities.

6 “(3) Any activity permitted for Operation
7 Stonegarden under the most recent fiscal year De-
8 partment of Homeland Security’s Homeland Secu-
9 rity Grant Program Notice of Funding Opportunity.

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

13 “(e) NOTIFICATION.—Upon denial of a grant to a law
14 enforcement agency, the Administrator shall provide writ-
15 ten notice to the Committee on Homeland Security of the
16 House of Representatives and the Committee on Home-
17 land Security and Governmental Affairs of the Senate, in-
18 cluding the reasoning for such denial.

19 “(f) REPORT.—For each of fiscal years 2024 through
20 2028 the Administrator shall submit to the Committee on
21 Homeland Security of the House of Representatives and
22 the Committee on Homeland Security and Governmental
23 Affairs of the Senate a report that contains—

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

1 “(2) recommendations for other uses of such
2 grants to further support eligible law enforcement
3 agencies.

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

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

11 “(a) GRANTS AUTHORIZED.—The Secretary, through
12 the Administrator, may award grants under sections 2003,
13 2004, 2009, and 2010 to State, local, and Tribal govern-
14 ments, as appropriate.”.

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

“Sec. 2010. Operation Stonegarden.”.

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

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

1 (b) UNMANNED AIRCRAFT SYSTEMS.—The Sec-
2 retary, after coordination with the Administrator of the
3 Federal Aviation Administration, shall ensure that Air and
4 Marine Operations operate unmanned aircraft systems on
5 the southern border of the United States for not less than
6 24 hours per day.

7 (c) PRIMARY MISSIONS.—The Commissioner shall
8 ensure the following:

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

11 (A) U.S. Border Patrol activities along the
12 borders of the United States.

13 (B) Joint Interagency Task Force South
14 and Joint Task Force East operations in the
15 transit zone.

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

19 (d) HIGH DEMAND FLIGHT HOUR REQUIRE-
20 MENTS.—The Commissioner shall—

21 (1) ensure that U.S. Border Patrol Sector
22 Chiefs identify air support mission-critical hours;
23 and

24 (2) direct Air and Marine Operations to sup-
25 port requests from such Sector Chiefs as a compo-

1 nent of the primary mission of Air and Marine Op-
2 erations in accordance with subsection (c)(1)(A).

3 (e) CONTRACT AIR SUPPORT AUTHORIZATIONS.—

4 The Commissioner shall contract for air support mission-
5 critical hours to meet the requests for such hours, as iden-
6 tified pursuant to subsection (d).

7 (f) SMALL UNMANNED AIRCRAFT SYSTEMS.—

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

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

14 (B) Achieving situational awareness and
15 operational control of the borders of the United
16 States.

17 (2) COORDINATION.—In carrying out para-
18 graph (1), the Chief of the U.S. Border Patrol shall
19 coordinate—

20 (A) flight operations with the Adminis-
21 trator of the Federal Aviation Administration to
22 ensure the safe and efficient operation of the
23 national airspace system; and

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

4 (i) ensure the safety of other CBP
5 aircraft flying in the vicinity of small un-
6 manned aircraft operated by the U.S. Bor-
7 der Patrol; and

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

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

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

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

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

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

1 (g) SAVINGS CLAUSE.—Nothing in this section may
2 be construed as conferring, transferring, or delegating to
3 the Secretary, the Commissioner, the Executive Assistant
4 Commissioner for Air and Marine Operations of CBP, or
5 the Chief of the U.S. Border Patrol any authority of the
6 Secretary of Transportation or the Administrator of the
7 Federal Aviation Administration relating to the use of air-
8 space or aviation safety.

9 (h) DEFINITIONS.—In this section:

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

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

20 **SEC. 112. ERADICATION OF CARRIZO CANE AND SALT**
21 **CEDAR.**

22 (a) IN GENERAL.—Not later than 30 days after the
23 date of the enactment of this Act, the Secretary, in coordi-
24 nation with the heads of relevant Federal, State, and local
25 agencies, shall hire contractors to begin eradicating the

1 carrizo cane plant and any salt cedar along the Rio
2 Grande River that impedes border security operations.

3 Such eradication shall be completed—

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

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

8 (b) APPLICATION.—The waiver authority under sub-
9 section (c) of section 102 of the Illegal Immigration Re-
10 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
11 1103 note), as amended by section 103 of this division,
12 shall apply to activities carried out pursuant to subsection
13 (a).

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

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

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

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

8 (b) ELEMENTS.—The plan shall include the fol-
9 lowing:

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

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

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

23 (A) increase situational awareness, includ-
24 ing—

25 (i) surveillance capabilities, such as
26 capabilities developed or utilized by the

1 Department of Defense, and any appro-
2 priate technology determined to be excess
3 by the Department of Defense; and

4 (ii) the use of manned aircraft and
5 unmanned aircraft;

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

9 (C) detect, interdict, and disrupt between
10 ports of entry aliens unlawfully present in the
11 United States;

12 (D) detect, interdict, and disrupt human
13 smuggling, human trafficking, drug trafficking,
14 and other illicit cross-border activity;

15 (E) focus intelligence collection to disrupt
16 transnational criminal organizations outside of
17 the international and maritime borders of the
18 United States; and

19 (F) ensure that any new border security
20 technology can be operationally integrated with
21 existing technologies in use by the Department.

22 (4) Information relating to initiatives of the De-
23 partment with respect to operational coordination,
24 including any relevant task forces of the Depart-
25 ment.

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

4 (6) A description of cooperative agreements re-
5 lating to information sharing with State, local, Trib-
6 al, territorial, and other Federal law enforcement
7 agencies that have jurisdiction on the borders of the
8 United States.

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

11 (A) State, local, Tribal, territorial, and
12 other Federal law enforcement agencies that
13 have jurisdiction on the borders of the United
14 States or in the maritime environment.

15 (B) Border community stakeholders, in-
16 cluding representatives from the following:

17 (i) Border agricultural and ranching
18 organizations.

19 (ii) Business and civic organizations.

20 (iii) Hospitals and rural clinics within
21 150 miles of the borders of the United
22 States.

23 (iv) Victims of crime committed by
24 aliens unlawfully present in the United
25 States.

1 (v) Victims impacted by drugs,
2 transnational criminal organizations, car-
3 tels, gangs, or other criminal activity.

4 (vi) Farmers, ranchers, and property
5 owners along the border.

6 (vii) Other individuals negatively im-
7 pacted by illegal immigration.

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

11 (9) A prioritized list of Department research
12 and development objectives to enhance the security
13 of the borders of the United States.

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

16 (A) Identifying and detecting fraudulent
17 documents.

18 (B) Understanding the scope of CBP en-
19 forcement authorities and appropriate use of
20 force policies.

21 (C) Screening, identifying, and addressing
22 vulnerable populations, such as children and
23 victims of human trafficking.

1 **SEC. 114. U.S. CUSTOMS AND BORDER PROTECTION SPIR-**
2 **ITUAL READINESS.**

3 Not later than one year after the enactment of this
4 Act and annually thereafter for five years, the Commis-
5 sioner shall submit to the Committee on Homeland Secu-
6 rity of the House of Representatives and the Committee
7 on Homeland Security and Governmental Affairs of the
8 Senate a report on the availability and usage of the assist-
9 ance of chaplains, prayer groups, houses of worship, and
10 other spiritual resources for members of CBP who identify
11 as religiously affiliated and have attempted suicide, have
12 suicidal ideation, or are at risk of suicide, and metrics on
13 the impact such resources have in assisting religiously af-
14 filiated members who have access to and utilize such re-
15 sources compared to religiously affiliated members who do
16 not.

17 **SEC. 115. RESTRICTIONS ON FUNDING.**

18 (a) ARRIVING ALIENS.—No funds are authorized to
19 be appropriated to the Department to process the entry
20 into the United States of aliens arriving in between ports
21 of entry.

22 (b) RESTRICTION ON NONGOVERNMENTAL ORGANI-
23 ZATION SUPPORT FOR UNLAWFUL ACTIVITY.—No funds
24 are authorized to be appropriated to the Department for
25 disbursement to any nongovernmental organization that
26 facilitates or encourages unlawful activity, including un-

1 lawful entry, human trafficking, human smuggling, drug
2 trafficking, and drug smuggling.

3 (c) RESTRICTION ON NONGOVERNMENTAL ORGANI-
4 ZATION FACILITATION OF ILLEGAL IMMIGRATION.—No
5 funds are authorized to be appropriated to the Depart-
6 ment for disbursement to any nongovernmental organiza-
7 tion to provide, or facilitate the provision of, transpor-
8 tation, lodging, or immigration legal services to inadmis-
9 sible aliens who enter the United States after the date of
10 the enactment of this Act.

11 **SEC. 116. COLLECTION OF DNA AND BIOMETRIC INFORMA-**
12 **TION AT THE BORDER.**

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

1 **SEC. 117. ERADICATION OF NARCOTIC DRUGS AND FORMU-**
2 **LATING EFFECTIVE NEW TOOLS TO ADDRESS**
3 **YEARLY LOSSES OF LIFE; ENSURING TIMELY**
4 **UPDATES TO U.S. CUSTOMS AND BORDER**
5 **PROTECTION FIELD MANUALS.**

6 (a) IN GENERAL.—Not later than 90 days after the
7 date of the enactment of this Act, and not less frequently
8 than triennially thereafter, the Commissioner of U.S. Cus-
9 toms and Border Protection shall review and update, as
10 necessary, the current policies and manuals of the Office
11 of Field Operations related to inspections at ports of
12 entry, and the U.S. Border Patrol related to inspections
13 between ports of entry, to ensure the uniform implementa-
14 tion of inspection practices that will effectively respond to
15 technological and methodological changes designed to dis-
16 guise unlawful activity, such as the smuggling of drugs
17 and humans, along the border.

18 (b) REPORTING REQUIREMENT.—Not later than 90
19 days after each update required under subsection (a), the
20 Commissioner of U.S. Customs and Border Protection
21 shall submit to the Committee on Homeland Security and
22 the Committee on the Judiciary of the House of Rep-
23 resentatives and the Committee on Homeland Security
24 and Governmental Affairs and the Committee on the Judi-
25 ciary of the Senate a report that summarizes any policy
26 and manual changes pursuant to subsection (a).

1 **SEC. 118. PUBLICATION BY U.S. CUSTOMS AND BORDER**
2 **PROTECTION OF OPERATIONAL STATISTICS.**

3 (a) IN GENERAL.—Not later than the seventh day of
4 each month beginning with the second full month after
5 the date of the enactment of this Act, the Commissioner
6 of U.S. Customs and Border Protection shall publish on
7 a publicly available website of the Department of Home-
8 land Security information relating to the total number of
9 alien encounters and nationalities, unique alien encounters
10 and nationalities, gang affiliated apprehensions and na-
11 tionalities, drug seizures, alien encounters included in the
12 terrorist screening database and nationalities, arrests of
13 criminal aliens or individuals wanted by law enforcement
14 and nationalities, known got aways, encounters with de-
15 ceased aliens, and all other related or associated statistics
16 recorded by U.S. Customs and Border Protection during
17 the immediately preceding month. Each such publication
18 shall include the following:

19 (1) The aggregate such number, and such num-
20 ber disaggregated by geographic regions, of such re-
21 cordings and encounters, including specifications re-
22 lating to whether such recordings and encounters
23 were at the southwest, northern, or maritime border.

24 (2) An identification of the Office of Field Op-
25 erations field office, U.S. Border Patrol sector, or

1 Air and Marine Operations branch making each re-
2 cording or encounter.

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

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

9 (5) Information relating to the nationality of
10 each alien who is the subject of each recording or
11 encounter.

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

17 (7) The total number of individuals included in
18 the terrorist screening database who have been ap-
19 prehended, including information relating to whether
20 such individuals were released into the United States
21 or removed.

22 (b) EXCEPTIONS.—If the Commissioner of U.S. Cus-
23 toms and Border Protection in any month does not publish
24 the information required under subsection (a), or does not
25 publish such information by the date specified in such sub-

1 section, the Commissioner shall brief the Committee on
2 Homeland Security of the House of Representatives and
3 the Committee on Homeland Security and Governmental
4 Affairs of the Senate regarding the reason relating there-
5 to, as the case may be, by not later than the date that
6 is two business days after the tenth day of such month.

7 (c) DEFINITIONS.—In this section:

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

12 (2) GOT AWAY.—The term “got away” has the
13 meaning given such term in section 1092(a) of the
14 National Defense Authorization Act for Fiscal Year
15 2017 (6 U.S.C. 223(a)).

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

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

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

2 (a) IN GENERAL.—Not later than seven days after
3 the date of the enactment of this Act, the Commissioner
4 shall certify to the Committee on Homeland Security and
5 the Committee on the Judiciary of the House of Rep-
6 resentatives and the Committee on Homeland Security
7 and Governmental Affairs and the Committee on the Judi-
8 ciary of the Senate that CBP has real-time access to the
9 criminal history databases of all countries of origin and
10 transit for aliens encountered by CBP to perform criminal
11 history background checks for such aliens.

12 (b) STANDARDS.—The certification required under
13 subsection (a) shall also include a determination whether
14 the criminal history databases of a country are accurate,
15 up to date, digitized, searchable, and otherwise meet the
16 standards of the Federal Bureau of Investigation for
17 criminal history databases maintained by State and local
18 governments.

19 (c) CERTIFICATION.—The Secretary shall annually
20 submit to the Committee on Homeland Security and the
21 Committee on the Judiciary of the House of Representa-
22 tives and the Committee on Homeland Security and Gov-
23 ernmental Affairs and the Committee on the Judiciary of
24 the Senate a certification that each database referred to
25 in subsection (b) which the Secretary accessed or sought

1 to access pursuant to this section met the standards de-
2 scribed in subsection (b).

3 **SEC. 120. PROHIBITED IDENTIFICATION DOCUMENTS AT**
4 **AIRPORT SECURITY CHECKPOINTS; NOTIFI-**
5 **CATION TO IMMIGRATION AGENCIES.**

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

9 (b) NOTIFICATION TO IMMIGRATION AGENCIES.—If
10 an individual presents a prohibited identification docu-
11 ment to an officer of the Transportation Security Admin-
12 istration at an airport security checkpoint, the Adminis-
13 trator shall promptly notify the Director of U.S. Immigra-
14 tion and Customs Enforcement, the Director of U.S. Cus-
15 toms and Border Protection, and the head of the appro-
16 priate local law enforcement agency to determine whether
17 the individual is in violation of any term of release from
18 the custody of any such agency.

19 (c) ENTRY INTO STERILE AREAS.—

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

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

4 (A) is leaving the United States for the
5 purposes of removal or deportation; or

6 (B) presents a covered identification docu-
7 ment.

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

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

17 (1) is seeking entry into the sterile area of an
18 airport;

19 (2) does not present a covered identification
20 document; and

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

23 (f) PARTICIPATION IN IDENT.—Beginning not later
24 than 120 days after the date of the enactment of this Act,
25 the Administrator, in coordination with the Secretary,

1 shall submit biometric data collected under this section to
2 the Automated Biometric Identification System (IDENT).

3 (g) DEFINITIONS.—In this section:

4 (1) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Transpor-
6 tation Security Administration.

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

9 (A) A fingerprint.

10 (B) A palm print.

11 (C) A photograph, including—

12 (i) a photograph of an individual’s
13 face for use with facial recognition tech-
14 nology; and

15 (ii) a photograph of any physical or
16 anatomical feature, such as a scar, skin
17 mark, or tattoo.

18 (D) A signature.

19 (E) A voice print.

20 (F) An iris image.

21 (3) COVERED IDENTIFICATION DOCUMENT.—

22 The term “covered identification document” means
23 any of the following, if the document is valid and
24 unexpired:

1 (A) A United States passport or passport
2 card.

3 (B) A biometrically secure card issued by
4 a trusted traveler program of the Department
5 of Homeland Security, including—

6 (i) Global Entry;

7 (ii) Nexus;

8 (iii) Secure Electronic Network for
9 Travelers Rapid Inspection (SENTRI);
10 and

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

12 (C) An identification card issued by the
13 Department of Defense, including such a card
14 issued to a dependent.

15 (D) Any document required for admission
16 to the United States under section 211(a) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1181(a)).

19 (E) An enhanced driver's license issued by
20 a State.

21 (F) A photo identification card issued by a
22 federally recognized Indian Tribe.

23 (G) A personal identity verification creden-
24 tial issued in accordance with Homeland Secu-
25 rity Presidential Directive 12.

1 (H) A driver’s license issued by a province
2 of Canada.

3 (I) A Secure Certificate of Indian Status
4 issued by the Government of Canada.

5 (J) A Transportation Worker Identifica-
6 tion Credential.

7 (K) A Merchant Mariner Credential issued
8 by the Coast Guard.

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

11 (M) Any other document the Administrator
12 determines, pursuant to a rule making in ac-
13 cordance with section 553 of title 5, United
14 States Code, will satisfy the identity verification
15 procedures of the Transportation Security Ad-
16 ministration.

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

21 (5) PROHIBITED IDENTIFICATION DOCU-
22 MENT.—The term “prohibited identification docu-
23 ment” means any of the following (or any applicable
24 successor form):

1 (A) U.S. Immigration and Customs En-
2 forcement Form I-200, Warrant for Arrest of
3 Alien.

4 (B) U.S. Immigration and Customs En-
5 forcement Form I-205, Warrant of Removal/
6 Deportation.

7 (C) U.S. Immigration and Customs En-
8 forcement Form I-220A, Order of Release on
9 Recognizance.

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

12 (E) Department of Homeland Security
13 Form I-862, Notice to Appear.

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

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

19 (H) Any document that directs an indi-
20 vidual to report to the Department of Home-
21 land Security.

22 (I) Any Department of Homeland Security
23 work authorization or employment verification
24 document.

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

5 **SEC. 121. PROHIBITION AGAINST ANY COVID-19 VACCINE**
6 **MANDATE OR ADVERSE ACTION AGAINST**
7 **DHS EMPLOYEES.**

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

12 (b) PROHIBITION ON ADVERSE ACTION.—The Sec-
13 retary may not take any adverse action against a Depart-
14 ment employee based solely on the refusal of such em-
15 ployee to receive a vaccine for COVID-19.

16 (c) REPORT.—Not later than 90 days after the date
17 of the enactment of this Act, the Secretary shall report
18 to the Committee on Homeland Security of the House of
19 Representatives and the Committee on Homeland Security
20 and Governmental Affairs of the Senate on the following:

21 (1) The number of Department employees who
22 were terminated or resigned due to the COVID-19
23 vaccine mandate.

24 (2) An estimate of the cost to reinstate such
25 employees.

1 (3) How the Department would effectuate rein-
2 statement of such employees.

3 (d) RETENTION AND DEVELOPMENT OF
4 UNVACCINATED EMPLOYEES.—The Secretary shall make
5 every effort to retain Department employees who are not
6 vaccinated against COVID–19 and provide such employees
7 with professional development, promotion and leadership
8 opportunities, and consideration equal to that of their
9 peers.

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

11 (a) LIMITATION.—The Department may use the CBP
12 One Mobile Application or any other similar program, ap-
13 plication, internet-based portal, website, device, or initia-
14 tive only for inspection of perishable cargo.

15 (b) REPORT.—Not later than 60 days after the date
16 of the enactment of this Act, the Commissioner shall re-
17 port to the Committee on Homeland Security of the House
18 of Representatives and the Committee on Homeland Secu-
19 rity and Governmental Affairs of the Senate the date on
20 which CBP began using CBP One to allow aliens to sched-
21 ule interviews at land ports of entry, how many aliens have
22 scheduled interviews at land ports of entry using CBP
23 One, the nationalities of such aliens, and the stated final
24 destinations of such aliens within the United States, if
25 any.

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

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

5 (1) A national strategy to address Mexican
6 drug cartels, and a determination regarding whether
7 there should be a designation established to address
8 such cartels.

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

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

13 (a) IN GENERAL.—Not later than 90 days after the
14 date of the enactment of this Act, the Comptroller General
15 of the United States shall conduct a study to examine the
16 costs incurred by individual States as a result of actions
17 taken by such States in support of the Federal mission
18 to secure the southwest border, and the feasibility of a
19 program to reimburse such States for such costs.

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

22 (1) Actions taken by the Department of Home-
23 land Security that have contributed to costs de-
24 scribed in such subsection incurred by States to se-
25 cure the border in the absence of Federal action, in-
26 cluding the termination of the Migrant Protection

1 Protocols and cancellation of border wall construc-
2 tion.

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

6 (3) The feasibility of a program within the De-
7 partment of Homeland Security to reimburse States
8 for the costs incurred in support of the Federal mis-
9 sion to secure the southwest border.

10 **SEC. 125. REPORT BY INSPECTOR GENERAL OF THE DE-**
11 **PARTMENT OF HOMELAND SECURITY.**

12 (a) REPORT.—Not later than one year after the date
13 of the enactment of this Act and annually thereafter for
14 five years, the Inspector General of the Department of
15 Homeland Security shall submit to 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 a report examining the economic and
19 security impact of mass migration to municipalities and
20 States along the southwest border. Such report shall in-
21 clude information regarding costs incurred by the fol-
22 lowing:

23 (1) State and local law enforcement to secure
24 the southwest border.

1 (2) Public school districts to educate students
2 who are aliens unlawfully present in the United
3 States.

4 (3) Healthcare providers to provide care to
5 aliens unlawfully present in the United States who
6 have not paid for such care.

7 (4) Farmers and ranchers due to migration im-
8 pacts to their properties.

9 (b) CONSULTATION.—To produce the report required
10 under subsection (a), the Inspector General of the Depart-
11 ment of Homeland Security shall consult with the individ-
12 uals and representatives of the entities described in para-
13 graphs (1) through (4) of such subsection.

14 **SEC. 126. OFFSETTING AUTHORIZATIONS OF APPROPRIA-**
15 **TIONS.**

16 (a) OFFICE OF THE SECRETARY AND EMERGENCY
17 MANAGEMENT.—No funds are authorized to be appro-
18 priated for the Alternatives to Detention Case Manage-
19 ment Pilot Program or the Office of the Immigration De-
20 tention Ombudsman for the Office of the Secretary and
21 Emergency Management of the Department of Homeland
22 Security.

23 (b) MANAGEMENT DIRECTORATE.—No funds are au-
24 thorized to be appropriated for electric vehicles or St. Eliz-

1 abeths campus construction for the Management Direc-
2 torate of the Department of Homeland Security.

3 (c) INTELLIGENCE, ANALYSIS, AND SITUATIONAL
4 AWARENESS.—There is authorized to be appropriated
5 \$216,000,000 for Intelligence, Analysis, and Situational
6 Awareness of the Department of Homeland Security.

7 (d) U.S. CUSTOMS AND BORDER PROTECTION.—No
8 funds are authorized to be appropriated for the Shelter
9 Services Program for U.S. Customs and Border Protec-
10 tion.

11 **SEC. 127. REPORT TO CONGRESS ON FOREIGN TERRORIST**
12 **ORGANIZATIONS.**

13 (a) IN GENERAL.—Not later than 90 days after the
14 date of the enactment of this Act and annually thereafter
15 for five years, the Secretary of Homeland Security shall
16 submit to the Committee on Homeland Security of the
17 House of Representatives and the Committee on Home-
18 land Security and Governmental Affairs of the Senate an
19 assessment of foreign terrorist organizations attempting
20 to move their members or affiliates into the United States
21 through the southern, northern, or maritime border.

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

1 **SEC. 128. ASSESSMENT BY INSPECTOR GENERAL OF THE**
2 **DEPARTMENT OF HOMELAND SECURITY ON**
3 **THE MITIGATION OF UNMANNED AIRCRAFT**
4 **SYSTEMS AT THE SOUTHWEST BORDER.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Inspector General of the Department
7 of Homeland Security shall submit to the Committee on
8 Homeland Security of the House of Representatives and
9 the Committee on Homeland Security and Governmental
10 Affairs of the Senate an assessment of U.S. Customs and
11 Border Protection's ability to mitigate unmanned aircraft
12 systems at the southwest border. Such assessment shall
13 include information regarding any intervention between
14 January 1, 2021, and the date of the enactment of this
15 Act, by any Federal agency affecting in any manner U.S.
16 Customs and Border Protection's authority to so mitigate
17 such systems.

18 **DIVISION B—IMMIGRATION EN-**
19 **FORCEMENT AND FOREIGN**
20 **AFFAIRS**

21 **TITLE I—ASYLUM REFORM AND**
22 **BORDER PROTECTION**

23 **SEC. 101. SAFE THIRD COUNTRY.**

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

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

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

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

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

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

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

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

14 “(ii) that the alien entered, attempted to enter,
15 or arrived in the United States after transiting
16 through at least one country outside the alien’s
17 country of citizenship, nationality, or last lawful ha-
18 bitual residence en route to the United States, un-
19 less—

20 “(I) the alien demonstrates that he or she
21 applied for protection from persecution or tor-
22 ture in at least one country outside the alien’s
23 country of citizenship, nationality, or last lawful
24 habitual residence through which the alien
25 transited en route to the United States, and the

1 alien received a final judgment denying the
2 alien protection in each country;

3 “(II) the alien demonstrates that he or she
4 was a victim of a severe form of trafficking in
5 which a commercial sex act was induced by
6 force, fraud, or coercion, or in which the person
7 induced to perform such act was under the age
8 of 18 years; or in which the trafficking included
9 the recruitment, harboring, transportation, pro-
10 vision, or obtaining of a person for labor or
11 services through the use of force, fraud, or coer-
12 cion for the purpose of subjection to involuntary
13 servitude, peonage, debt bondage, or slavery,
14 and was unable to apply for protection from
15 persecution in each country through which the
16 alien transited en route to the United States as
17 a result of such severe form of trafficking; or

18 “(III) the only countries through which the
19 alien transited en route to the United States
20 were, at the time of the transit, not parties to
21 the 1951 United Nations Convention relating to
22 the Status of Refugees, the 1967 Protocol Re-
23 lating to the Status of Refugees, or the United
24 Nations Convention against Torture and Other

1 Cruel, Inhuman or Degrading Treatment or
2 Punishment.”.

3 **SEC. 102. CREDIBLE FEAR INTERVIEWS.**

4 Section 235(b)(1)(B)(v) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
6 striking “there is a significant possibility” and all that fol-
7 lows, and inserting “, taking into account the credibility
8 of the statements made by the alien in support of the
9 alien’s claim, as determined pursuant to section
10 208(b)(1)(B)(iii), and such other facts as are known to
11 the officer, the alien more likely than not could establish
12 eligibility for asylum under section 208, and it is more
13 likely than not that the statements made by, and on behalf
14 of, the alien in support of the alien’s claim are true.”.

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

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

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

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

6 (2) by inserting after “United States” the fol-
7 lowing: “and has arrived in the United States at a
8 port of entry (including an alien who is brought to
9 the United States after having been interdicted in
10 international or United States waters),”.

11 **SEC. 104. EXCEPTIONS.**

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

15 “(2) EXCEPTIONS.—

16 “(A) IN GENERAL.—Paragraph (1) shall
17 not apply to an alien if the Secretary of Home-
18 land Security or the Attorney General deter-
19 mines that—

20 “(i) the alien ordered, incited, as-
21 sisted, or otherwise participated in the per-
22 secution of any person on account of race,
23 religion, nationality, membership in a par-
24 ticular social group, or political opinion;

1 “(ii) the alien has been convicted of
2 any felony under Federal, State, tribal, or
3 local law;

4 “(iii) the alien has been convicted of
5 any misdemeanor offense under Federal,
6 State, tribal, or local law involving—

7 “(I) the unlawful possession or
8 use of an identification document, au-
9 thentication feature, or false identi-
10 fication document (as those terms and
11 phrases are defined in the jurisdiction
12 where the conviction occurred), unless
13 the alien can establish that the convic-
14 tion resulted from circumstances
15 showing that—

16 “(aa) the document or fea-
17 ture was presented before board-
18 ing a common carrier;

19 “(bb) the document or fea-
20 ture related to the alien’s eligi-
21 bility to enter the United States;

22 “(cc) the alien used the doc-
23 ument or feature to depart a
24 country wherein the alien has

1 claimed a fear of persecution;
2 and

3 “(dd) the alien claimed a
4 fear of persecution without delay
5 upon presenting himself or her-
6 self to an immigration officer
7 upon arrival at a United States
8 port of entry;

9 “(II) the unlawful receipt of a
10 Federal public benefit (as defined in
11 section 401(e) of the Personal Re-
12 sponsibility and Work Opportunity
13 Reconciliation Act of 1996 (8 U.S.C.
14 1611(e))), from a Federal entity, or
15 the unlawful receipt of similar public
16 benefits from a State, tribal, or local
17 entity; or

18 “(III) possession or trafficking of
19 a controlled substance or controlled
20 substance paraphernalia, as those
21 phrases are defined under the law of
22 the jurisdiction where the conviction
23 occurred, other than a single offense
24 involving possession for one’s own use
25 of 30 grams or less of marijuana (as

1 marijuana is defined under the law of
2 the jurisdiction where the conviction
3 occurred);

4 “(iv) the alien has been convicted of
5 an offense arising under paragraph (1)(A)
6 or (2) of section 274(a), or under section
7 276;

8 “(v) the alien has been convicted of a
9 Federal, State, tribal, or local crime that
10 the Attorney General or Secretary of
11 Homeland Security knows, or has reason
12 to believe, was committed in support, pro-
13 motion, or furtherance of the activity of a
14 criminal street gang (as defined under the
15 law of the jurisdiction where the conviction
16 occurred or in section 521(a) of title 18,
17 United States Code);

18 “(vi) the alien has been convicted of
19 an offense for driving while intoxicated or
20 impaired, as those terms are defined under
21 the law of the jurisdiction where the con-
22 viction occurred (including a conviction for
23 driving while under the influence of or im-
24 paired by alcohol or drugs), without regard
25 to whether the conviction is classified as a

1 misdemeanor or felony under Federal,
2 State, tribal, or local law, in which such in-
3 toxicated or impaired driving was a cause
4 of serious bodily injury or death of another
5 person;

6 “(vii) the alien has been convicted of
7 more than one offense for driving while in-
8 toxicated or impaired, as those terms are
9 defined under the law of the jurisdiction
10 where the conviction occurred (including a
11 conviction for driving while under the in-
12 fluence of or impaired by alcohol or drugs),
13 without regard to whether the conviction is
14 classified as a misdemeanor or felony
15 under Federal, State, tribal, or local law;

16 “(viii) the alien has been convicted of
17 a crime—

18 “(I) that involves conduct
19 amounting to a crime of stalking;

20 “(II) of child abuse, child ne-
21 glect, or child abandonment; or

22 “(III) that involves conduct
23 amounting to a domestic assault or
24 battery offense, including—

1 “(aa) a misdemeanor crime
2 of domestic violence, as described
3 in section 921(a)(33) of title 18,
4 United States Code;

5 “(bb) a crime of domestic vi-
6 olence, as described in section
7 40002(a)(12) of the Violence
8 Against Women Act of 1994 (34
9 U.S.C. 12291(a)(12)); or

10 “(cc) any crime based on
11 conduct in which the alien har-
12 assed, coerced, intimidated, vol-
13 untarily or recklessly used (or
14 threatened to use) force or vio-
15 lence against, or inflicted phys-
16 ical injury or physical pain, how-
17 ever slight, upon a person—

18 “(AA) who is a current
19 or former spouse of the
20 alien;

21 “(BB) with whom the
22 alien shares a child;

23 “(CC) who is cohabi-
24 tating with, or who has

1 cohabitated with, the alien
2 as a spouse;

3 “(DD) who is similarly
4 situated to a spouse of the
5 alien under the domestic or
6 family violence laws of the
7 jurisdiction where the of-
8 fense occurred; or

9 “(EE) who is protected
10 from that alien’s acts under
11 the domestic or family vio-
12 lence laws of the United
13 States or of any State, tribal
14 government, or unit of local
15 government;

16 “(ix) the alien has engaged in acts of
17 battery or extreme cruelty upon a person
18 and the person—

19 “(I) is a current or former
20 spouse of the alien;

21 “(II) shares a child with the
22 alien;

23 “(III) cohabitates or has
24 cohabitated with the alien as a spouse;

1 “(IV) is similarly situated to a
2 spouse of the alien under the domestic
3 or family violence laws of the jurisdic-
4 tion where the offense occurred; or

5 “(V) is protected from that
6 alien’s acts under the domestic or
7 family violence laws of the United
8 States or of any State, tribal govern-
9 ment, or unit of local government;

10 “(x) the alien, having been convicted
11 by a final judgment of a particularly seri-
12 ous crime, constitutes a danger to the com-
13 munity of the United States;

14 “(xi) there are serious reasons for be-
15 lieving that the alien has committed a seri-
16 ous nonpolitical crime outside the United
17 States prior to the arrival of the alien in
18 the United States;

19 “(xii) there are reasonable grounds
20 for regarding the alien as a danger to the
21 security of the United States;

22 “(xiii) the alien is described in sub-
23 clause (I), (II), (III), (IV), or (VI) of sec-
24 tion 212(a)(3)(B)(i) or section
25 237(a)(4)(B) (relating to terrorist activ-

1 ity), unless, in the case only of an alien in-
2 admissible under subclause (IV) of section
3 212(a)(3)(B)(i), the Secretary of Home-
4 land Security or the Attorney General de-
5 termines, in the Secretary’s or the Attor-
6 ney General’s discretion, that there are not
7 reasonable grounds for regarding the alien
8 as a danger to the security of the United
9 States;

10 “(xiv) the alien was firmly resettled in
11 another country prior to arriving in the
12 United States; or

13 “(xv) there are reasonable grounds for
14 concluding the alien could avoid persecu-
15 tion by relocating to another part of the
16 alien’s country of nationality or, in the
17 case of an alien having no nationality, an-
18 other part of the alien’s country of last ha-
19 bitual residence.

20 “(B) SPECIAL RULES.—

21 “(i) PARTICULARLY SERIOUS CRIME;
22 SERIOUS NONPOLITICAL CRIME OUTSIDE
23 THE UNITED STATES.—

24 “(I) IN GENERAL.—For purposes
25 of subparagraph (A)(x), the Attorney

1 General or Secretary of Homeland Se-
2 curity, in their discretion, may deter-
3 mine that a conviction constitutes a
4 particularly serious crime based on—

5 “(aa) the nature of the con-
6 viction;

7 “(bb) the type of sentence
8 imposed; or

9 “(cc) the circumstances and
10 underlying facts of the convic-
11 tion.

12 “(II) DETERMINATION.—In mak-
13 ing a determination under subclause
14 (I), the Attorney General or Secretary
15 of Homeland Security may consider
16 all reliable information and is not lim-
17 ited to facts found by the criminal
18 court or provided in the underlying
19 record of conviction.

20 “(III) TREATMENT OF FELO-
21 NIES.—In making a determination
22 under subclause (I), an alien who has
23 been convicted of a felony (as defined
24 under this section) or an aggravated
25 felony (as defined under section

1 101(a)(43)), shall be considered to
2 have been convicted of a particularly
3 serious crime.

4 “(IV) INTERPOL RED NOTICE.—

5 In making a determination under sub-
6 paragraph (A)(xi), an Interpol Red
7 Notice may constitute reliable evi-
8 dence that the alien has committed a
9 serious nonpolitical crime outside the
10 United States.

11 “(ii) CRIMES AND EXCEPTIONS.—

12 “(I) DRIVING WHILE INTOXI-
13 CATED OR IMPAIRED.—A finding
14 under subparagraph (A)(vi) does not
15 require the Attorney General or Sec-
16 retary of Homeland Security to find
17 the first conviction for driving while
18 intoxicated or impaired (including a
19 conviction for driving while under the
20 influence of or impaired by alcohol or
21 drugs) as a predicate offense. The At-
22 torney General or Secretary of Home-
23 land Security need only make a fac-
24 tual determination that the alien pre-
25 viously was convicted for driving while

1 intoxicated or impaired as those terms
2 are defined under the jurisdiction
3 where the conviction occurred (includ-
4 ing a conviction for driving while
5 under the influence of or impaired by
6 alcohol or drugs).

7 “(II) STALKING AND OTHER
8 CRIMES.—In making a determination
9 under subparagraph (A)(viii), includ-
10 ing determining the existence of a do-
11 mestic relationship between the alien
12 and the victim, the underlying conduct
13 of the crime may be considered, and
14 the Attorney General or Secretary of
15 Homeland Security is not limited to
16 facts found by the criminal court or
17 provided in the underlying record of
18 conviction.

19 “(III) BATTERY OR EXTREME
20 CRUELTY.—In making a determina-
21 tion under subparagraph (A)(ix), the
22 phrase ‘battery or extreme cruelty’ in-
23 cludes—

24 “(aa) any act or threatened
25 act of violence, including any

1 forceful detention, which results
2 or threatens to result in physical
3 or mental injury;

4 “(bb) psychological or sexual
5 abuse or exploitation, including
6 rape, molestation, incest, or
7 forced prostitution, shall be con-
8 sidered acts of violence; and

9 “(cc) other abusive acts, in-
10 cluding acts that, in and of them-
11 selves, may not initially appear
12 violent, but that are a part of an
13 overall pattern of violence.

14 “(IV) EXCEPTION FOR VICTIMS
15 OF DOMESTIC VIOLENCE.—An alien
16 who was convicted of an offense de-
17 scribed in clause (viii) or (ix) of sub-
18 paragraph (A) is not ineligible for
19 asylum on that basis if the alien satis-
20 fies the criteria under section
21 237(a)(7)(A).

22 “(C) SPECIFIC CIRCUMSTANCES.—Para-
23 graph (1) shall not apply to an alien whose
24 claim is based on—

1 “(i) personal animus or retribution,
2 including personal animus in which the al-
3 leged persecutor has not targeted, or mani-
4 fested an animus against, other members
5 of an alleged particular social group in ad-
6 dition to the member who has raised the
7 claim at issue;

8 “(ii) the applicant’s generalized dis-
9 approval of, disagreement with, or opposi-
10 tion to criminal, terrorist, gang, guerilla,
11 or other non-state organizations absent ex-
12 pressive behavior in furtherance of a dis-
13 crete cause against such organizations re-
14 lated to control of a State or expressive be-
15 havior that is antithetical to the State or
16 a legal unit of the State;

17 “(iii) the applicant’s resistance to re-
18 cruitment or coercion by guerrilla, crimi-
19 nal, gang, terrorist, or other non-state or-
20 ganizations;

21 “(iv) the targeting of the applicant for
22 criminal activity for financial gain based
23 on wealth or affluence or perceptions of
24 wealth or affluence;

1 “(v) the applicant’s criminal activity;

2 or

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

5 “(D) DEFINITIONS AND CLARIFICA-
6 TIONS.—

7 “(i) DEFINITIONS.—For purposes of
8 this paragraph:

9 “(I) FELONY.—The term ‘felony’
10 means—

11 “(aa) any crime defined as a
12 felony by the relevant jurisdiction
13 (Federal, State, tribal, or local)
14 of conviction; or

15 “(bb) any crime punishable
16 by more than one year of impris-
17 onment.

18 “(II) MISDEMEANOR.—The term
19 ‘misdemeanor’ means—

20 “(aa) any crime defined as a
21 misdemeanor by the relevant ju-
22 risdiction (Federal, State, tribal,
23 or local) of conviction; or

1 “(bb) any crime not punish-
2 able by more than one year of
3 imprisonment.

4 “(ii) CLARIFICATIONS.—

5 “(I) CONSTRUCTION.—For pur-
6 poses of this paragraph, whether any
7 activity or conviction also may con-
8 stitute a basis for removal is immate-
9 rial to a determination of asylum eli-
10 gibility.

11 “(II) ATTEMPT, CONSPIRACY, OR
12 SOLICITATION.—For purposes of this
13 paragraph, all references to a criminal
14 offense or criminal conviction shall be
15 deemed to include any attempt, con-
16 spiracy, or solicitation to commit the
17 offense or any other inchoate form of
18 the offense.

19 “(III) EFFECT OF CERTAIN OR-
20 DERS.—

21 “(aa) IN GENERAL.—No
22 order vacating a conviction,
23 modifying a sentence, clarifying a
24 sentence, or otherwise altering a
25 conviction or sentence shall have

1 any effect under this paragraph
2 unless the Attorney General or
3 Secretary of Homeland Security
4 determines that—

5 “(AA) the court issuing
6 the order had jurisdiction
7 and authority to do so; and

8 “(BB) the order was
9 not entered for rehabilitative
10 purposes or for purposes of
11 ameliorating the immigra-
12 tion consequences of the
13 conviction or sentence.

14 “(bb) AMELIORATING IMMI-
15 GRATION CONSEQUENCES.—For
16 purposes of item (aa)(BB), the
17 order shall be presumed to be for
18 the purpose of ameliorating im-
19 migration consequences if—

20 “(AA) the order was
21 entered after the initiation
22 of any proceeding to remove
23 the alien from the United
24 States; or

1 “(BB) the alien moved
2 for the order more than one
3 year after the date of the
4 original order of conviction
5 or sentencing, whichever is
6 later.

7 “(cc) AUTHORITY OF IMMI-
8 GRATION JUDGE.—An immigra-
9 tion judge is not limited to con-
10 sideration only of material in-
11 cluded in any order vacating a
12 conviction, modifying a sentence,
13 or clarifying a sentence to deter-
14 mine whether such order should
15 be given any effect under this
16 paragraph, but may consider
17 such additional information as
18 the immigration judge determines
19 appropriate.

20 “(E) ADDITIONAL LIMITATIONS.—The
21 Secretary of Homeland Security or the Attorney
22 General may by regulation establish additional
23 limitations and conditions, consistent with this
24 section, under which an alien shall be ineligible
25 for asylum under paragraph (1).

1 “(F) NO JUDICIAL REVIEW.—There shall
2 be no judicial review of a determination of the
3 Secretary of Homeland Security or the Attorney
4 General under subparagraph (A)(xiii).”.

5 **SEC. 105. EMPLOYMENT AUTHORIZATION.**

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

9 “(2) EMPLOYMENT AUTHORIZATION.—

10 “(A) AUTHORIZATION PERMITTED.—An
11 applicant for asylum is not entitled to employ-
12 ment authorization, but such authorization may
13 be provided under regulation by the Secretary
14 of Homeland Security. An applicant who is not
15 otherwise eligible for employment authorization
16 shall not be granted such authorization prior to
17 the date that is 180 days after the date of filing
18 of the application for asylum.

19 “(B) TERMINATION.—Each grant of em-
20 ployment authorization under subparagraph
21 (A), and any renewal or extension thereof, shall
22 be valid for a period of 6 months, except that
23 such authorization, renewal, or extension shall
24 terminate prior to the end of such 6 month pe-
25 riod as follows:

1 “(i) Immediately following the denial
2 of an asylum application by an asylum offi-
3 cer, unless the case is referred to an immi-
4 gration judge.

5 “(ii) 30 days after the date on which
6 an immigration judge denies an asylum ap-
7 plication, unless the alien timely appeals to
8 the Board of Immigration Appeals.

9 “(iii) Immediately following the denial
10 by the Board of Immigration Appeals of an
11 appeal of a denial of an asylum applica-
12 tion.

13 “(C) RENEWAL.—The Secretary of Home-
14 land Security may not grant, renew, or extend
15 employment authorization to an alien if the
16 alien was previously granted employment au-
17 thorization under subparagraph (A), and the
18 employment authorization was terminated pur-
19 suant to a circumstance described in subpara-
20 graph (B)(i), (ii), or (iii), unless a Federal
21 court of appeals remands the alien’s case to the
22 Board of Immigration Appeals.

23 “(D) INELIGIBILITY.—The Secretary of
24 Homeland Security may not grant employment

1 authorization to an alien under this paragraph
2 if the alien—

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

5 “(ii) entered or attempted to enter the
6 United States at a place and time other
7 than lawfully through a United States port
8 of entry.”.

9 **SEC. 106. ASYLUM FEES.**

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

13 “(3) FEES.—

14 “(A) APPLICATION FEE.—A fee of not less
15 than \$50 for each application for asylum shall
16 be imposed. Such fee shall not exceed the cost
17 of adjudicating the application. Such fee shall
18 not apply to an unaccompanied alien child who
19 files an asylum application in proceedings under
20 section 240.

21 “(B) EMPLOYMENT AUTHORIZATION.—A
22 fee may also be imposed for the consideration
23 of an application for employment authorization
24 under this section and for adjustment of status

1 under section 209(b). Such a fee shall not ex-
2 ceed the cost of adjudicating the application.

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

6 “(D) RULE OF CONSTRUCTION.—Nothing
7 in this paragraph shall be construed to limit the
8 authority of the Attorney General or Secretary
9 of Homeland Security to set adjudication and
10 naturalization fees in accordance with section
11 286(m).”.

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

13 Section 208 of the Immigration and Nationality Act
14 (8 U.S.C. 1158) is amended by adding at the end the fol-
15 lowing:

16 “(f) RULES FOR DETERMINING ASYLUM ELIGI-
17 BILITY.—In making a determination under subsection
18 (b)(1)(A) with respect to whether an alien is a refugee
19 within the meaning of section 101(a)(42)(A), the following
20 shall apply:

21 “(1) PARTICULAR SOCIAL GROUP.—The Sec-
22 retary of Homeland Security or the Attorney Gen-
23 eral shall not determine that an alien is a member
24 of a particular social group unless the alien articu-
25 lates on the record, or provides a basis on the record

1 for determining, the definition and boundaries of the
2 alleged particular social group, establishes that the
3 particular social group exists independently from the
4 alleged persecution, and establishes that the alien's
5 claim of membership in a particular social group
6 does not involve—

7 “(A) past or present criminal activity or
8 association (including gang membership);

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

11 “(C) being the subject of a recruitment ef-
12 fort by criminal, terrorist, or persecutory
13 groups;

14 “(D) the targeting of the applicant for
15 criminal activity for financial gain based on per-
16 ceptions of wealth or affluence;

17 “(E) interpersonal disputes of which gov-
18 ernmental authorities in the relevant society or
19 region were unaware or uninvolved;

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

23 “(G) past or present terrorist activity or
24 association;

1 “(H) past or present persecutory activity
2 or association; or

3 “(I) status as an alien returning from the
4 United States.

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

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

23 “(A) the existence of laws or government
24 policies that are unenforced or infrequently en-
25 forced, unless there is credible evidence that

1 such a law or policy has been or would be ap-
2 plied to the applicant personally; or

3 “(B) the conduct of rogue foreign govern-
4 ment officials acting outside the scope of their
5 official capacity.

6 “(4) DISCRETIONARY DETERMINATION.—

7 “(A) ADVERSE DISCRETIONARY FAC-
8 TORS.—The Secretary of Homeland Security or
9 the Attorney General may only grant asylum to
10 an alien if the alien establishes that he or she
11 warrants a favorable exercise of discretion. In
12 making such a determination, the Attorney
13 General or Secretary of Homeland Security
14 shall consider, if applicable, an alien’s use of
15 fraudulent documents to enter the United
16 States, unless the alien arrived in the United
17 States by air, sea, or land directly from the ap-
18 plicant’s home country without transiting
19 through any other country.

20 “(B) FAVORABLE EXERCISE OF DISCRE-
21 TION NOT PERMITTED.—Except as provided in
22 subparagraph (C), the Attorney General or Sec-
23 retary of Homeland Security shall not favorably
24 exercise discretion under this section for any
25 alien who—

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

6 “(ii) at the time the asylum applica-
7 tion is filed with the immigration court or
8 is referred from the Department of Home-
9 land Security, has—

10 “(I) failed to timely file (or time-
11 ly file a request for an extension of
12 time to file) any required Federal,
13 State, or local income tax returns;

14 “(II) failed to satisfy any out-
15 standing Federal, State, or local tax
16 obligations; or

17 “(III) income that would result
18 in tax liability under section 1 of the
19 Internal Revenue Code of 1986 and
20 that was not reported to the Internal
21 Revenue Service;

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

1 “(iv) has withdrawn a prior asylum
2 application with prejudice or been found to
3 have abandoned a prior asylum application;

4 “(v) failed to attend an interview re-
5 garding his or her asylum application with
6 the Department of Homeland Security, un-
7 less the alien shows by a preponderance of
8 the evidence that—

9 “(I) exceptional circumstances
10 prevented the alien from attending the
11 interview; or

12 “(II) the interview notice was not
13 mailed to the last address provided by
14 the alien or the alien’s representative
15 and neither the alien nor the alien’s
16 representative received notice of the
17 interview; or

18 “(vi) was subject to a final order of
19 removal, deportation, or exclusion and did
20 not file a motion to reopen to seek asylum
21 based on changed country conditions with-
22 in one year of the change in country condi-
23 tions.

24 “(C) EXCEPTIONS.—If one or more of the
25 adverse discretionary factors set forth in sub-

1 paragraph (B) are present, the Attorney Gen-
2 eral or the Secretary, may, notwithstanding
3 such subparagraph (B), favorably exercise dis-
4 cretion under section 208—

5 “(i) in extraordinary circumstances,
6 such as those involving national security or
7 foreign policy considerations; or

8 “(ii) if the alien, by clear and con-
9 vincing evidence, demonstrates that the de-
10 nial of the application for asylum would re-
11 sult in exceptional and extremely unusual
12 hardship to the alien.

13 “(5) LIMITATION.—If the Secretary or the At-
14 torney General determines that an alien fails to sat-
15 isfy the requirement under paragraph (1), the alien
16 may not be granted asylum based on membership in
17 a particular social group, and may not appeal the
18 determination of the Secretary or Attorney General,
19 as applicable. A determination under this paragraph
20 shall not serve as the basis for any motion to reopen
21 or reconsider an application for asylum or with-
22 holding of removal for any reason, including a claim
23 of ineffective assistance of counsel, unless the alien
24 complies with the procedural requirements for such
25 a motion and demonstrates that counsel’s failure to

1 define, or provide a basis for defining, a formulation
2 of a particular social group was both not a strategic
3 choice and constituted egregious conduct.

4 “(6) STEREOTYPES.—Evidence offered in sup-
5 port of an application for asylum that promotes cul-
6 tural stereotypes about a country, its inhabitants, or
7 an alleged persecutor, including stereotypes based on
8 race, religion, nationality, or gender, shall not be ad-
9 missible in adjudicating that application, except that
10 evidence that an alleged persecutor holds
11 stereotypical views of the applicant shall be admis-
12 sible.

13 “(7) DEFINITIONS.—In this section:

14 “(A) The term ‘membership in a particular
15 social group’ means membership in a group
16 that is—

17 “(i) composed of members who share
18 a common immutable characteristic;

19 “(ii) defined with particularity; and

20 “(iii) socially distinct within the soci-
21 ety in question.

22 “(B) The term ‘political opinion’ means an
23 ideal or conviction in support of the furtherance
24 of a discrete cause related to political control of
25 a state or a unit thereof.

1 “(C) The term ‘persecution’ means the in-
2 fiction of a severe level of harm constituting an
3 exigent threat by the government of a country
4 or by persons or an organization that the gov-
5 ernment was unable or unwilling to control.
6 Such term does not include—

7 “(i) generalized harm or violence that
8 arises out of civil, criminal, or military
9 strife in a country;

10 “(ii) all treatment that the United
11 States regards as unfair, offensive, unjust,
12 unlawful, or unconstitutional;

13 “(iii) intermittent harassment, includ-
14 ing brief detentions;

15 “(iv) threats with no actual effort to
16 carry out the threats, except that particu-
17 larized threats of severe harm of an imme-
18 diate and menacing nature made by an
19 identified entity may constitute persecu-
20 tion; or

21 “(v) non-severe economic harm or
22 property damage.”.

1 **SEC. 108. FIRM RESETTLEMENT.**

2 Section 208 of the Immigration and Nationality Act
3 (8 U.S.C. 1158), as amended by this title, is further
4 amended by adding at the end the following:

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

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

13 “(A) the alien resided in a country through
14 which the alien transited prior to arriving in or
15 entering the United States and—

16 “(i) received or was eligible for any
17 permanent legal immigration status in that
18 country;

19 “(ii) resided in such a country with
20 any non-permanent but indefinitely renew-
21 able legal immigration status (including
22 asylee, refugee, or similar status, but ex-
23 cluding status of a tourist); or

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

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

12 “(C) the alien is a citizen of a country
13 other than the country in which the alien al-
14 leges a fear of persecution, or was a citizen of
15 such a country in the case of an alien who re-
16 nounces such citizenship, and the alien was
17 present in that country after departing his
18 country of nationality or last habitual residence
19 and prior to arrival in or entry into the United
20 States.

21 “(2) BURDEN OF PROOF.—If an immigration
22 judge determines that an alien has firmly resettled
23 in another country under paragraph (1), the alien
24 shall bear the burden of proving the bar does not
25 apply.

1 “(3) FIRM RESETTLEMENT OF PARENT.—An
2 alien shall be presumed to have been firmly resettled
3 in another country if the alien’s parent was firmly
4 resettled in another country, the parent’s resettlement
5 occurred before the alien turned 18 years of
6 age, and the alien resided with such parent at the
7 time of the firm resettlement, unless the alien establishes
8 that he or she could not have derived any permanent
9 legal immigration status or any non-permanent
10 but indefinitely renewable legal immigration
11 status (including asylum, refugee, or similar status,
12 but excluding status of a tourist) from the alien’s
13 parent.”.

14 **SEC. 109. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
15 **PLICATIONS.**

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

19 (1) in the matter preceding subparagraph (A),
20 by inserting “the Secretary of Homeland Security
21 or” before “the Attorney General”;

22 (2) in subparagraph (A), by striking “and of
23 the consequences, under paragraph (6), of knowingly
24 filing a frivolous application for asylum; and” and
25 inserting a semicolon;

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

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

4 “(C) ensure that a written warning ap-
5 pears on the asylum application advising the
6 alien of the consequences of filing a frivolous
7 application and serving as notice to the alien of
8 the consequence of filing a frivolous applica-
9 tion.”.

10 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1158(d)(6)) is amended by striking “If the” and all that
13 follows and inserting:

14 “(A) IN GENERAL.—If the Secretary of
15 Homeland Security or the Attorney General de-
16 termines that an alien has knowingly made a
17 frivolous application for asylum and the alien
18 has received the notice under paragraph (4)(C),
19 the alien shall be permanently ineligible for any
20 benefits under this chapter, effective as the date
21 of the final determination of such an applica-
22 tion.

23 “(B) CRITERIA.—An application is frivo-
24 lous if the Secretary of Homeland Security or

1 the Attorney General determines, consistent
2 with subparagraph (C), that—

3 “(i) it is so insufficient in substance
4 that it is clear that the applicant know-
5 ingly filed the application solely or in part
6 to delay removal from the United States,
7 to seek employment authorization as an
8 applicant for asylum pursuant to regula-
9 tions issued pursuant to paragraph (2), or
10 to seek issuance of a Notice to Appear in
11 order to pursue Cancellation of Removal
12 under section 240A(b); or

13 “(ii) any of the material elements are
14 knowingly fabricated.

15 “(C) SUFFICIENT OPPORTUNITY TO CLAR-
16 IFY.—In determining that an application is friv-
17 olous, the Secretary or the Attorney General,
18 must be satisfied that the applicant, during the
19 course of the proceedings, has had sufficient op-
20 portunity to clarify any discrepancies or implau-
21 sible aspects of the claim.

22 “(D) WITHHOLDING OF REMOVAL NOT
23 PRECLUDED.—For purposes of this section, a
24 finding that an alien filed a frivolous asylum
25 application shall not preclude the alien from

1 seeking withholding of removal under section
2 241(b)(3) or protection pursuant to the Con-
3 vention Against Torture.”.

4 **SEC. 110. TECHNICAL AMENDMENTS.**

5 Section 208 of the Immigration and Nationality Act
6 (8 U.S.C. 1158) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)(D), by inserting
9 “Secretary of Homeland Security or the” before
10 “Attorney General”; and

11 (B) in paragraph (3), by inserting “Sec-
12 retary of Homeland Security or the” before
13 “Attorney General”;

14 (2) in subsection (c)—

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

18 (B) in paragraph (2), in the matter pre-
19 ceding subparagraph (A), by inserting “Sec-
20 retary of Homeland Security or the” before
21 “Attorney General”; and

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

25 (3) in subsection (d)—

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

5 (B) in paragraph (5)—

6 (i) in subparagraph (A), by striking
7 “Attorney General” and inserting “Sec-
8 retary of Homeland Security”; and

9 (ii) in subparagraph (B), by inserting
10 “Secretary of Homeland Security or the”
11 before “Attorney General”.

12 **SEC. 111. REQUIREMENT FOR PROCEDURES RELATING TO**
13 **CERTAIN ASYLUM APPLICATIONS.**

14 (a) **IN GENERAL.**—Not later than 30 days after the
15 date of the enactment of this Act, the Attorney General
16 shall establish procedures to expedite the adjudication of
17 asylum applications for aliens—

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

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

24 (b) **WESTERN HEMISPHERE COUNTRY SANCTIONED**
25 **BY THE UNITED STATES DESCRIBED.**—Subsection (a)

1 shall apply only to an asylum application filed by an alien
2 who is a national of a Western Hemisphere country sub-
3 ject to sanctions pursuant to—

4 (1) the Cuban Liberty and Democratic Soli-
5 darity (LIBERTAD) Act of 1996 (22 U.S.C. 6021
6 note);

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

10 (3) Executive Order 13692 (80 Fed. Reg.
11 12747; declaring a national emergency with respect
12 to the situation in Venezuela).

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

16 **TITLE II—BORDER SAFETY AND** 17 **MIGRANT PROTECTION**

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

19 Section 235 of the Immigration and Nationality Act
20 (8 U.S.C. 1225) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1)—

23 (i) in subparagraph (A)—

24 (I) in clauses (i) and (ii), by
25 striking “section 212(a)(6)(C)” in-

1 serting “subparagraph (A) or (C) of
2 section 212(a)(6)”; and

3 (II) by adding at the end the fol-
4 lowing:

5 “(iv) INELIGIBILITY FOR PAROLE.—
6 An alien described in clause (i) or (ii) shall
7 not be eligible for parole except as ex-
8 pressly authorized pursuant to section
9 212(d)(5), or for parole or release pursu-
10 ant to section 236(a).”; and

11 (ii) in subparagraph (B)—

12 (I) in clause (ii), by striking
13 “asylum.” and inserting “asylum and
14 shall not be released (including pursu-
15 ant to parole or release pursuant to
16 section 236(a) but excluding as ex-
17 pressly authorized pursuant to section
18 212(d)(5)) other than to be removed
19 or returned to a country as described
20 in paragraph (3).”; and

21 (II) in clause (iii)(IV)—

22 (aa) in the header by strik-
23 ing “DETENTION” and inserting
24 “DETENTION, RETURN, OR RE-
25 MOVAL”; and

1 (bb) by adding at the end
2 the following: “The alien shall
3 not be released (including pursu-
4 ant to parole or release pursuant
5 to section 236(a) but excluding
6 as expressly authorized pursuant
7 to section 212(d)(5)) other than
8 to be removed or returned to a
9 country as described in para-
10 graph (3).”;

11 (B) in paragraph (2)—

12 (i) in subparagraph (A)—

13 (I) by striking “Subject to sub-
14 paragraphs (B) and (C),” and insert-
15 ing “Subject to subparagraph (B) and
16 paragraph (3),”; and

17 (II) by adding at the end the fol-
18 lowing: “The alien shall not be re-
19 leased (including pursuant to parole
20 or release pursuant to section 236(a)
21 but excluding as expressly authorized
22 pursuant to section 212(d)(5)) other
23 than to be removed or returned to a
24 country as described in paragraph
25 (3).”; and

1 (ii) by striking subparagraph (C);
2 (C) by redesignating paragraph (3) as
3 paragraph (5); and
4 (D) by inserting after paragraph (2) the
5 following:

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

8 “(A) IN GENERAL.—The Secretary of
9 Homeland Security may return to a foreign ter-
10 ritory contiguous to the United States any alien
11 arriving on land from that territory (whether or
12 not at a designated port of entry) pending a
13 proceeding under section 240 or review of a de-
14 termination under subsection (b)(1)(B)(iii)(III).

15 “(B) MANDATORY RETURN.—If at any
16 time the Secretary of Homeland Security can-
17 not—

18 “(i) comply with its obligations to de-
19 tain an alien as required under clauses (ii)
20 and (iii)(IV) of subsection (b)(1)(B) and
21 subsection (b)(2)(A); or

22 “(ii) remove an alien to a country de-
23 scribed in section 208(a)(2)(A),
24 the Secretary of Homeland Security shall, with-
25 out exception, including pursuant to parole or

1 release pursuant to section 236(a) but exclud-
2 ing as expressly authorized pursuant to section
3 212(d)(5), return to a foreign territory contig-
4 uous to the United States any alien arriving on
5 land from that territory (whether or not at a
6 designated port of entry) pending a proceeding
7 under section 240 or review of a determination
8 under subsection (b)(1)(B)(iii)(III).

9 “(4) ENFORCEMENT BY STATE ATTORNEYS
10 GENERAL.—The attorney general of a State, or
11 other authorized State officer, alleging a violation of
12 the detention, return, or removal requirements under
13 paragraph (1), (2), or (3) that affects such State or
14 its residents, may bring an action against the Sec-
15 retary of Homeland Security on behalf of the resi-
16 dents of the State in an appropriate United States
17 district court to obtain appropriate injunctive re-
18 lief.”; and

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

20 “(e) AUTHORITY TO PROHIBIT INTRODUCTION OF
21 CERTAIN ALIENS.—If the Secretary of Homeland Security
22 determines, in his discretion, that the prohibition of the
23 introduction of aliens who are inadmissible under subpara-
24 graph (A) or (C) of section 212(a)(6) or under section
25 212(a)(7) at an international land or maritime border of

1 the United States is necessary to achieve operational con-
2 trol (as defined in section 2 of the Secure Fence Act of
3 2006 (8 U.S.C. 1701 note)) of such border, the Secretary
4 may prohibit, in whole or in part, the introduction of such
5 aliens at such border for such period of time as the Sec-
6 retary determines is necessary for such purpose.”.

7 **SEC. 202. OPERATIONAL DETENTION FACILITIES.**

8 (a) IN GENERAL.—Not later than September 30,
9 2023, the Secretary of Homeland Security shall take all
10 necessary actions to reopen or restore all U.S. Immigra-
11 tion and Customs Enforcement detention facilities that
12 were in operation on January 20, 2021, that subsequently
13 closed or with respect to which the use was altered, re-
14 duced, or discontinued after January 20, 2021. In car-
15 rying out the requirement under this subsection, the Sec-
16 retary may use the authority under section 103(a)(11) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1103(a)(11)).

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

- 22 (1) Irwin County Detention Center in Georgia.
- 23 (2) C. Carlos Carreiro Immigration Detention
24 Center in Bristol County, Massachusetts.

1 (3) Etowah County Detention Center in Gads-
2 den, Alabama.

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

5 (5) South Texas Family Residential Center.

6 (c) EXCEPTION.—

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

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

17 (3) SOUTH TEXAS FAMILY RESIDENTIAL CEN-
18 TER.—The exception under paragraph (1) shall not
19 apply to the South Texas Family Residential Center.
20 The Secretary shall take all necessary steps to mod-
21 ify and operate the South Texas Family Residential
22 Center in the same manner and capability it was op-
23 erating on January 20, 2021.

24 (d) PERIODIC REPORT.—Not later than 90 days after
25 the date of the enactment of this Act, and every 90 days

1 thereafter until September 30, 2027, the Secretary of
2 Homeland Security shall submit to the appropriate con-
3 gressional committees a detailed plan for and a status re-
4 port on—

5 (1) compliance with the deadline under sub-
6 section (a);

7 (2) the increase in detention capabilities re-
8 quired by this section—

9 (A) for the 90 day period immediately pre-
10 ceeding the date such report is submitted; and

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

15 (3) the number of detention beds that were
16 used and the number of available detention beds
17 that were not used during—

18 (A) the 90 day period immediately pre-
19 ceeding the date such report is submitted; and

20 (B) the period beginning on the first day
21 of the fiscal year during which the report is
22 submitted, and ending on the date such report
23 is submitted;

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

1 (5) the resources the Department of Homeland
2 Security needs in order to comply with the require-
3 ments under this section.

4 (e) NOTIFICATION.—The Secretary of Homeland Se-
5 curity shall notify Congress, and include with such notifi-
6 cation a detailed description of the resources the Depart-
7 ment of Homeland Security needs in order to detain all
8 aliens whose detention is mandatory or nondiscretionary
9 under the Immigration and Nationality Act (8 U.S.C.
10 1101 et seq.)—

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

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

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

20 (f) APPROPRIATE CONGRESSIONAL COMMITTEES.—
21 In this section, the term “appropriate congressional com-
22 mittees” means—

23 (1) the Committee on the Judiciary of the
24 House of Representatives;

1 (2) the Committee on Appropriations of the
2 House of Representatives;

3 (3) the Committee on the Judiciary of the Sen-
4 ate; and

5 (4) the Committee on Appropriations of the
6 Senate.

7 **TITLE III—PREVENTING UNCON-**
8 **TROLLED MIGRATION FLOWS**
9 **IN THE WESTERN HEMI-**
10 **SPHERE**

11 **SEC. 301. UNITED STATES POLICY REGARDING WESTERN**
12 **HEMISPHERE COOPERATION ON IMMIGRA-**
13 **TION AND ASYLUM.**

14 It is the policy of the United States to enter into
15 agreements, accords, and memoranda of understanding
16 with countries in the Western Hemisphere, the purposes
17 of which are to advance the interests of the United States
18 by reducing costs associated with illegal immigration and
19 to protect the human capital, societal traditions, and eco-
20 nomic growth of other countries in the Western Hemi-
21 sphere. It is further the policy of the United States to
22 ensure that humanitarian and development assistance
23 funding aimed at reducing illegal immigration is not ex-
24 pended on programs that have not proven to reduce illegal
25 immigrant flows in the aggregate.

1 **SEC. 302. NEGOTIATIONS BY SECRETARY OF STATE.**

2 (a) AUTHORIZATION TO NEGOTIATE.—The Secretary
3 of State shall seek to negotiate agreements, accords, and
4 memoranda of understanding between the United States,
5 Mexico, Honduras, El Salvador, Guatemala, and other
6 countries in the Western Hemisphere with respect to co-
7 operation and burden sharing required for effective re-
8 gional immigration enforcement, expediting legal claims by
9 aliens for asylum, and the processing, detention, and repa-
10 triation of foreign nationals seeking to enter the United
11 States unlawfully. Such agreements shall be designed to
12 facilitate a regional approach to immigration enforcement
13 and shall, at a minimum, provide that—

14 (1) the Government of Mexico authorize and ac-
15 cept the rapid entrance into Mexico of nationals of
16 countries other than Mexico who seek asylum in
17 Mexico, and process the asylum claims of such na-
18 tionals inside Mexico, in accordance with both do-
19 mestic law and international treaties and conven-
20 tions governing the processing of asylum claims;

21 (2) the Government of Mexico authorize and ac-
22 cept both the rapid entrance into Mexico of all na-
23 tionals of countries other than Mexico who are ineli-
24 gible for asylum in Mexico and wish to apply for
25 asylum in the United States, whether or not at a
26 port of entry, and the continued presence of such

1 nationals in Mexico while they wait for the adjudica-
2 tion of their asylum claims to conclude in the United
3 States;

4 (3) the Government of Mexico commit to pro-
5 vide the individuals described in paragraphs (1) and
6 (2) with appropriate humanitarian protections;

7 (4) the Government of Honduras, the Govern-
8 ment of El Salvador, and the Government of Guate-
9 mala each authorize and accept the entrance into
10 the respective countries of nationals of other coun-
11 tries seeking asylum in the applicable such country
12 and process such claims in accordance with applica-
13 ble domestic law and international treaties and con-
14 ventions governing the processing of asylum claims;

15 (5) the Government of the United States com-
16 mit to work to accelerate the adjudication of asylum
17 claims and to conclude removal proceedings in the
18 wake of asylum adjudications as expeditiously as
19 possible;

20 (6) the Government of the United States com-
21 mit to continue to assist the governments of coun-
22 tries in the Western Hemisphere, such as the Gov-
23 ernment of Honduras, the Government of El Sal-
24 vador, and the Government of Guatemala, by sup-

1 porting the enhancement of asylum capacity in those
2 countries; and

3 (7) the Government of the United States com-
4 mit to monitoring developments in hemispheric im-
5 migration trends and regional asylum capabilities to
6 determine whether additional asylum cooperation
7 agreements are warranted.

8 (b) NOTIFICATION IN ACCORDANCE WITH CASE-ZA-
9 BLOCKI ACT.—The Secretary of State shall, in accordance
10 with section 112b of title 1, United States Code, promptly
11 inform the relevant congressional committees of each
12 agreement entered into pursuant to subsection (a). Such
13 notifications shall be submitted not later than 48 hours
14 after such agreements are signed.

15 (c) ALIEN DEFINED.—In this section, the term
16 “alien” has the meaning given such term in section 101
17 of the Immigration and Nationality Act (8 U.S.C. 1101).

18 **SEC. 303. MANDATORY BRIEFINGS ON UNITED STATES EF-**
19 **FORTS TO ADDRESS THE BORDER CRISIS.**

20 (a) BRIEFING REQUIRED.—Not later than 90 days
21 after the date of the enactment of this Act, and not less
22 frequently than once every 90 days thereafter until the
23 date described in subsection (b), the Secretary of State,
24 or the designee of the Secretary of State, shall provide
25 to the appropriate congressional committees an in-person

1 briefing on efforts undertaken pursuant to the negotiation
2 authority provided by section 302 of this title to monitor,
3 deter, and prevent illegal immigration to the United
4 States, including by entering into agreements, accords,
5 and memoranda of understanding with foreign countries
6 and by using United States foreign assistance to stem the
7 root causes of migration in the Western Hemisphere.

8 (b) TERMINATION OF MANDATORY BRIEFING.—The
9 date described in this subsection is the date on which the
10 Secretary of State, in consultation with the heads of other
11 relevant Federal departments and agencies, determines
12 and certifies to the appropriate congressional committees
13 that illegal immigration flows have subsided to a manage-
14 able rate.

15 (c) APPROPRIATE CONGRESSIONAL COMMITTEES DE-
16 FINED.—In this section, the term “appropriate congress-
17 sional committees” means the Committee on Foreign Af-
18 fairs of the House of Representatives and the Committee
19 on Foreign Relations of the Senate.

20 **TITLE IV—ENSURING UNITED** 21 **FAMILIES AT THE BORDER**

22 **SEC. 401. CLARIFICATION OF STANDARDS FOR FAMILY DE-** 23 **TENTION.**

24 (a) IN GENERAL.—Section 235 of the William Wil-
25 berforce Trafficking Victims Protection Reauthorization

1 Act of 2008 (8 U.S.C. 1232) is amended by adding at
2 the end the following:

3 “(j) CONSTRUCTION.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of law, judicial determination, consent de-
6 cree, or settlement agreement, the detention of any
7 alien child who is not an unaccompanied alien child
8 shall be governed by sections 217, 235, 236, and
9 241 of the Immigration and Nationality Act (8
10 U.S.C. 1187, 1225, 1226, and 1231). There is no
11 presumption that an alien child who is not an unac-
12 companied alien child should not be detained.

13 “(2) FAMILY DETENTION.—The Secretary of
14 Homeland Security shall—

15 “(A) maintain the care and custody of an
16 alien, during the period during which the
17 charges described in clause (i) are pending,
18 who—

19 “(i) is charged only with a mis-
20 demeanor offense under section 275(a) of
21 the Immigration and Nationality Act (8
22 U.S.C. 1325(a)); and

23 “(ii) entered the United States with
24 the alien’s child who has not attained 18
25 years of age; and

1 “(B) detain the alien with the alien’s
2 child.”.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that the amendments in this section to section 235
5 of the William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 (8 U.S.C. 1232) are intended
7 to satisfy the requirements of the Settlement Agreement
8 in *Flores v. Meese*, No. 85–4544 (C.D. Cal), as approved
9 by the court on January 28, 1997, with respect to its in-
10 terpretation in *Flores v. Johnson*, 212 F. Supp. 3d 864
11 (C.D. Cal. 2015), that the agreement applies to accom-
12 panied minors.

13 (c) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the date of the enact-
15 ment of this Act and shall apply to all actions that occur
16 before, on, or after such date.

17 (d) PREEMPTION OF STATE LICENSING REQUIRE-
18 MENTS.—Notwithstanding any other provision of law, ju-
19 dicial determination, consent decree, or settlement agree-
20 ment, no State may require that an immigration detention
21 facility used to detain children who have not attained 18
22 years of age, or families consisting of one or more of such
23 children and the parents or legal guardians of such chil-
24 dren, that is located in that State, be licensed by the State
25 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 **THIER 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.

16 **TITLE VIII—LEGAL WORKFORCE**

17 **SEC. 801. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-**

18 **ESS.**

19 (a) IN GENERAL.—Section 274A(b) of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1324a(b)) is amended
21 to read as follows:

22 “(b) EMPLOYMENT ELIGIBILITY VERIFICATION
23 PROCESS.—

24 “(1) NEW HIRES, RECRUITMENT, AND REFER-
25 RAL.—The requirements referred to in paragraphs
26 (1)(B) and (3) of subsection (a) are, in the case of

1 a person or other entity hiring, recruiting, or refer-
2 ring an individual for employment in the United
3 States, the following:

4 “(A) ATTESTATION AFTER EXAMINATION
5 OF DOCUMENTATION.—

6 “(i) ATTESTATION.—During the
7 verification period (as defined in subpara-
8 graph (E)), the person or entity shall at-
9 test, under penalty of perjury and on a
10 form, including electronic format, des-
11 ignated or established by the Secretary by
12 regulation not later than 6 months after
13 the date of the enactment of title VIII of
14 division B of the Secure the Border Act of
15 2023, that it has verified that the indi-
16 vidual is not an unauthorized alien by—

17 “(I) obtaining from the indi-
18 vidual the individual’s social security
19 account number or United States
20 passport number and recording the
21 number on the form (if the individual
22 claims to have been issued such a
23 number), and, if the individual does
24 not attest to United States nationality
25 under subparagraph (B), obtaining

1 such identification or authorization
2 number established by the Depart-
3 ment of Homeland Security for the
4 alien as the Secretary of Homeland
5 Security may specify, and recording
6 such number on the form; and

7 “(II) examining—

8 “(aa) a document relating to
9 the individual presenting it de-
10 scribed in clause (ii); or

11 “(bb) a document relating to
12 the individual presenting it de-
13 scribed in clause (iii) and a docu-
14 ment relating to the individual
15 presenting it described in clause
16 (iv).

17 “(ii) DOCUMENTS EVIDENCING EM-
18 PLOYMENT AUTHORIZATION AND ESTAB-
19 LISHING IDENTITY.—A document de-
20 scribed in this subparagraph is an individ-
21 ual’s—

22 “(I) unexpired United States
23 passport or passport card;

24 “(II) unexpired permanent resi-
25 dent card that contains a photograph;

1 “(III) unexpired employment au-
2 thORIZATION card that contains a pho-
3 tograph;

4 “(IV) in the case of a non-
5 immigrant alien authorized to work
6 for a specific employer incident to sta-
7 tus, a foreign passport with Form I-
8 94 or Form I-94A, or other docu-
9 mentation as designated by the Sec-
10 retary specifying the alien’s non-
11 immigrant status as long as the pe-
12 riod of status has not yet expired and
13 the proposed employment is not in
14 conflict with any restrictions or limita-
15 tions identified in the documentation;

16 “(V) passport from the Fed-
17 erated States of Micronesia (FSM) or
18 the Republic of the Marshall Islands
19 (RMI) with Form I-94 or Form I-
20 94A, or other documentation as des-
21 ignated by the Secretary, indicating
22 nonimmigrant admission under the
23 Compact of Free Association Between
24 the United States and the FSM or
25 RMI; or

1 “(VI) other document designated
2 by the Secretary of Homeland Secu-
3 rity, if the document—

4 “(aa) contains a photograph
5 of the individual and biometric
6 identification data from the indi-
7 vidual and such other personal
8 identifying information relating
9 to the individual as the Secretary
10 of Homeland Security finds, by
11 regulation, sufficient for purposes
12 of this clause;

13 “(bb) is evidence of author-
14 ization of employment in the
15 United States; and

16 “(cc) contains security fea-
17 tures to make it resistant to tam-
18 pering, counterfeiting, and fraud-
19 ulent use.

20 “(iii) DOCUMENTS EVIDENCING EM-
21 PLOYMENT AUTHORIZATION.—A document
22 described in this subparagraph is an indi-
23 vidual’s social security account number
24 card (other than such a card which speci-
25 fies on the face that the issuance of the

1 card does not authorize employment in the
2 United States).

3 “(iv) DOCUMENTS ESTABLISHING
4 IDENTITY OF INDIVIDUAL.—A document
5 described in this subparagraph is—

6 “(I) an individual’s unexpired
7 State issued driver’s license or identi-
8 fication card if it contains a photo-
9 graph and information such as name,
10 date of birth, gender, height, eye
11 color, and address;

12 “(II) an individual’s unexpired
13 United States military identification
14 card;

15 “(III) an individual’s unexpired
16 Native American tribal identification
17 document issued by a tribal entity rec-
18 ognized by the Bureau of Indian Af-
19 fairs; or

20 “(IV) in the case of an individual
21 under 18 years of age, a parent or
22 legal guardian’s attestation under
23 penalty of law as to the identity and
24 age of the individual.

1 “(v) AUTHORITY TO PROHIBIT USE OF
2 CERTAIN DOCUMENTS.—If the Secretary of
3 Homeland Security finds, by regulation,
4 that any document described in clause (i),
5 (ii), or (iii) as establishing employment au-
6 thorization or identity does not reliably es-
7 tablish such authorization or identity or is
8 being used fraudulently to an unacceptable
9 degree, the Secretary may prohibit or place
10 conditions on its use for purposes of this
11 paragraph.

12 “(vi) SIGNATURE.—Such attestation
13 may be manifested by either a handwritten
14 or electronic signature.

15 “(B) INDIVIDUAL ATTESTATION OF EM-
16 PLOYMENT AUTHORIZATION.—During the
17 verification period (as defined in subparagraph
18 (E)), the individual shall attest, under penalty
19 of perjury on the form designated or established
20 for purposes of subparagraph (A), that the indi-
21 vidual is a citizen or national of the United
22 States, an alien lawfully admitted for perma-
23 nent residence, or an alien who is authorized
24 under this Act or by the Secretary of Homeland
25 Security to be hired, recruited, or referred for

1 such employment. Such attestation may be
2 manifested by either a handwritten or electronic
3 signature. The individual shall also provide that
4 individual's social security account number or
5 United States passport number (if the indi-
6 vidual claims to have been issued such a num-
7 ber), and, if the individual does not attest to
8 United States nationality under this subpara-
9 graph, such identification or authorization num-
10 ber established by the Department of Homeland
11 Security for the alien as the Secretary may
12 specify.

13 “(C) RETENTION OF VERIFICATION FORM
14 AND VERIFICATION.—

15 “(i) IN GENERAL.—After completion
16 of such form in accordance with subpara-
17 graphs (A) and (B), the person or entity
18 shall—

19 “(I) retain a paper or electronic
20 version of the form and make it avail-
21 able for inspection by officers of the
22 Department of Homeland Security,
23 the Department of Justice, or the De-
24 partment of Labor during a period be-
25 ginning on the date of the recruiting

1 or referral of the individual, or, in the
2 case of the hiring of an individual, the
3 date on which the verification is com-
4 pleted, and ending—

5 “(aa) in the case of the re-
6 cruiting or referral of an indi-
7 vidual, 3 years after the date of
8 the recruiting or referral; and

9 “(bb) in the case of the hir-
10 ing of an individual, the later of
11 3 years after the date the
12 verification is completed or one
13 year after the date the individ-
14 ual’s employment is terminated;
15 and

16 “(II) during the verification pe-
17 riod (as defined in subparagraph (E)),
18 make an inquiry, as provided in sub-
19 section (d), using the verification sys-
20 tem to seek verification of the identity
21 and employment eligibility of an indi-
22 vidual.

23 “(ii) CONFIRMATION.—

24 “(I) CONFIRMATION RE-
25 CEIVED.—If the person or other entity

1 receives an appropriate confirmation
2 of an individual's identity and work
3 eligibility under the verification sys-
4 tem within the time period specified,
5 the person or entity shall record on
6 the form an appropriate code that is
7 provided under the system and that
8 indicates a final confirmation of such
9 identity and work eligibility of the in-
10 dividual.

11 “(II) TENTATIVE NONCONFIRMA-
12 TION RECEIVED.—If the person or
13 other entity receives a tentative non-
14 confirmation of an individual's iden-
15 tity or work eligibility under the
16 verification system within the time pe-
17 riod specified, the person or entity
18 shall so inform the individual for
19 whom the verification is sought. If the
20 individual does not contest the non-
21 confirmation within the time period
22 specified, the nonconfirmation shall be
23 considered final. The person or entity
24 shall then record on the form an ap-
25 propriate code which has been pro-

1 vided under the system to indicate a
2 final nonconfirmation. If the indi-
3 vidual does contest the nonconfirma-
4 tion, the individual shall utilize the
5 process for secondary verification pro-
6 vided under subsection (d). The non-
7 confirmation will remain tentative
8 until a final confirmation or noncon-
9 firmation is provided by the
10 verification system within the time pe-
11 riod specified. In no case shall an em-
12 ployer terminate employment of an in-
13 dividual because of a failure of the in-
14 dividual to have identity and work eli-
15 gibility confirmed under this section
16 until a nonconfirmation becomes final.
17 Nothing in this clause shall apply to a
18 termination of employment for any
19 reason other than because of such a
20 failure. In no case shall an employer
21 rescind the offer of employment to an
22 individual because of a failure of the
23 individual to have identity and work
24 eligibility confirmed under this sub-
25 section until a nonconfirmation be-

1 comes final. Nothing in this subclause
2 shall apply to a rescission of the offer
3 of employment for any reason other
4 than because of such a failure.

5 “(III) FINAL CONFIRMATION OR
6 NONCONFIRMATION RECEIVED.—If a
7 final confirmation or nonconfirmation
8 is provided by the verification system
9 regarding an individual, the person or
10 entity shall record on the form an ap-
11 propriate code that is provided under
12 the system and that indicates a con-
13 firmation or nonconfirmation of iden-
14 tity and work eligibility of the indi-
15 vidual.

16 “(IV) EXTENSION OF TIME.—If
17 the person or other entity in good
18 faith attempts to make an inquiry
19 during the time period specified and
20 the verification system has registered
21 that not all inquiries were received
22 during such time, the person or entity
23 may make an inquiry in the first sub-
24 sequent working day in which the
25 verification system registers that it

1 has received all inquiries. If the
2 verification system cannot receive in-
3 quires at all times during a day, the
4 person or entity merely has to assert
5 that the entity attempted to make the
6 inquiry on that day for the previous
7 sentence to apply to such an inquiry,
8 and does not have to provide any ad-
9 ditional proof concerning such inquiry.

10 “(V) CONSEQUENCES OF NON-
11 CONFIRMATION.—

12 “(aa) TERMINATION OR NO-
13 TIFICATION OF CONTINUED EM-
14 PLOYMENT.—If the person or
15 other entity has received a final
16 nonconfirmation regarding an in-
17 dividual, the person or entity
18 may terminate employment of the
19 individual (or decline to recruit
20 or refer the individual). If the
21 person or entity does not termi-
22 nate employment of the indi-
23 vidual or proceeds to recruit or
24 refer the individual, the person or
25 entity shall notify the Secretary

1 of Homeland Security of such
2 fact through the verification sys-
3 tem or in such other manner as
4 the Secretary may specify.

5 “(bb) FAILURE TO NO-
6 TIFY.—If the person or entity
7 fails to provide notice with re-
8 spect to an individual as required
9 under item (aa), the failure is
10 deemed to constitute a violation
11 of subsection (a)(1)(A) with re-
12 spect to that individual.

13 “(VI) CONTINUED EMPLOYMENT
14 AFTER FINAL NONCONFIRMATION.—If
15 the person or other entity continues to
16 employ (or to recruit or refer) an indi-
17 vidual after receiving final noncon-
18 firmation, a rebuttable presumption is
19 created that the person or entity has
20 violated subsection (a)(1)(A).

21 “(D) EFFECTIVE DATES OF NEW PROCE-
22 DURES.—

23 “(i) HIRING.—Except as provided in
24 clause (iii), the provisions of this para-
25 graph shall apply to a person or other enti-

1 ty hiring an individual for employment in
2 the United States as follows:

3 “(I) With respect to employers
4 having 10,000 or more employees in
5 the United States on the date of the
6 enactment of title VIII of division B
7 of the Secure the Border Act of 2023,
8 on the date that is 6 months after the
9 date of the enactment of title.

10 “(II) With respect to employers
11 having 500 or more employees in the
12 United States, but less than 10,000
13 employees in the United States, on
14 the date of the enactment of title VIII
15 of division B of the Secure the Border
16 Act of 2023, on the date that is 12
17 months after the date of the enact-
18 ment of such title.

19 “(III) With respect to employers
20 having 20 or more employees in the
21 United States, but less than 500 em-
22 ployees in the United States, on the
23 date of the enactment of title VIII of
24 division B of the Secure the Border
25 Act of 2023, on the date that is 18

1 months after the date of the enact-
2 ment of such title.

3 “(IV) With respect to employers
4 having one or more employees in the
5 United States, but less than 20 em-
6 ployees in the United States, on the
7 date of the enactment of title VIII of
8 division B of the Secure the Border
9 Act of 2023, on the date that is 24
10 months after the date of the enact-
11 ment of such title.

12 “(ii) RECRUITING AND REFERRING.—
13 Except as provided in clause (iii), the pro-
14 visions of this paragraph shall apply to a
15 person or other entity recruiting or refer-
16 ring an individual for employment in the
17 United States on the date that is 12
18 months after the date of the enactment of
19 title VIII of division B of the Secure the
20 Border Act of 2023.

21 “(iii) AGRICULTURAL LABOR OR SERV-
22 ICES.—With respect to an employee per-
23 forming agricultural labor or services, this
24 paragraph shall not apply with respect to
25 the verification of the employee until the

1 date that is 36 months after the date of
2 the enactment of title VIII of division B of
3 the Secure the Border Act of 2023. For
4 purposes of the preceding sentence, the
5 term ‘agricultural labor or services’ has the
6 meaning given such term by the Secretary
7 of Agriculture in regulations and includes
8 agricultural labor as defined in section
9 3121(g) of the Internal Revenue Code of
10 1986, agriculture as defined in section 3(f)
11 of the Fair Labor Standards Act of 1938
12 (29 U.S.C. 203(f)), the handling, planting,
13 drying, packing, packaging, processing,
14 freezing, or grading prior to delivery for
15 storage of any agricultural or horticultural
16 commodity in its unmanufactured state, all
17 activities required for the preparation,
18 processing or manufacturing of a product
19 of agriculture (as such term is defined in
20 such section 3(f)) for further distribution,
21 and activities similar to all the foregoing
22 as they relate to fish or shellfish facilities.
23 An employee described in this clause shall
24 not be counted for purposes of clause (i).

25 “(iv) EXTENSIONS.—

1 “(I) ON REQUEST.—Upon re-
2 quest by an employer having 50 or
3 fewer employees, the Secretary shall
4 allow a one-time 6-month extension of
5 the effective date set out in this sub-
6 paragraph applicable to such em-
7 ployer. Such request shall be made to
8 the Secretary and shall be made prior
9 to such effective date.

10 “(II) FOLLOWING REPORT.—If
11 the study under section 814 of title
12 VIII of division B of the Secure the
13 Border Act of 2023 has been sub-
14 mitted in accordance with such sec-
15 tion, the Secretary of Homeland Secu-
16 rity may extend the effective date set
17 out in clause (iii) on a one-time basis
18 for 12 months.

19 “(v) TRANSITION RULE.—Subject to
20 paragraph (4), the following shall apply to
21 a person or other entity hiring, recruiting,
22 or referring an individual for employment
23 in the United States until the effective
24 date or dates applicable under clauses (i)
25 through (iii):

1 “(I) This subsection, as in effect
2 before the enactment of title VIII of
3 division B of the Secure the Border
4 Act of 2023.

5 “(II) Subtitle A of title IV of the
6 Illegal Immigration Reform and Im-
7 migrant Responsibility Act of 1996 (8
8 U.S.C. 1324a note), as in effect be-
9 fore the effective date in section
10 807(c) of title VIII of division B of
11 the Secure the Border Act of 2023.

12 “(III) Any other provision of
13 Federal law requiring the person or
14 entity to participate in the E-Verify
15 Program described in section 403(a)
16 of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996
18 (8 U.S.C. 1324a note), as in effect be-
19 fore the effective date in section
20 807(c) of title VIII of division B of
21 the Secure the Border Act of 2023,
22 including Executive Order 13465 (8
23 U.S.C. 1324a note; relating to Gov-
24 ernment procurement).

25 “(E) VERIFICATION PERIOD DEFINED.—

1 “(i) IN GENERAL.—For purposes of
2 this paragraph:

3 “(I) In the case of recruitment or
4 referral, the term ‘verification period’
5 means the period ending on the date
6 recruiting or referring commences.

7 “(II) In the case of hiring, the
8 term ‘verification period’ means the
9 period beginning on the date on which
10 an offer of employment is extended
11 and ending on the date that is three
12 business days after the date of hire,
13 except as provided in clause (iii). The
14 offer of employment may be condi-
15 tioned in accordance with clause (ii).

16 “(ii) JOB OFFER MAY BE CONDI-
17 TIONAL.—A person or other entity may
18 offer a prospective employee an employ-
19 ment position that is conditioned on final
20 verification of the identity and employment
21 eligibility of the employee using the proce-
22 dures established under this paragraph.

23 “(iii) SPECIAL RULE.—Notwith-
24 standing clause (i)(II), in the case of an
25 alien who is authorized for employment

1 and who provides evidence from the Social
2 Security Administration that the alien has
3 applied for a social security account num-
4 ber, the verification period ends three busi-
5 ness days after the alien receives the social
6 security account number.

7 “(2) REVERIFICATION FOR INDIVIDUALS WITH
8 LIMITED WORK AUTHORIZATION.—

9 “(A) IN GENERAL.—Except as provided in
10 subparagraph (B), a person or entity shall
11 make an inquiry, as provided in subsection (d),
12 using the verification system to seek
13 reverification of the identity and employment
14 eligibility of all individuals with a limited period
15 of work authorization employed by the person
16 or entity during the three business days after
17 the date on which the employee’s work author-
18 ization expires as follows:

19 “(i) With respect to employers having
20 10,000 or more employees in the United
21 States on the date of the enactment of title
22 VIII of division B of the Secure the Border
23 Act of 2023, beginning on the date that is
24 6 months after the date of the enactment
25 of such title.

1 “(ii) With respect to employers having
2 500 or more employees in the United
3 States, but less than 10,000 employees in
4 the United States, on the date of the en-
5 actment of title VIII of division B of the
6 Secure the Border Act of 2023, beginning
7 on the date that is 12 months after the
8 date of the enactment of such title.

9 “(iii) With respect to employers hav-
10 ing 20 or more employees in the United
11 States, but less than 500 employees in the
12 United States, on the date of the enact-
13 ment of title VIII of division B of the Se-
14 cure the Border Act of 2023, beginning on
15 the date that is 18 months after the date
16 of the enactment of such title.

17 “(iv) With respect to employers hav-
18 ing one or more employees in the United
19 States, but less than 20 employees in the
20 United States, on the date of the enact-
21 ment of title VIII of division B of the Se-
22 cure the Border Act of 2023, beginning on
23 the date that is 24 months after the date
24 of the enactment of such title.

1 “(B) AGRICULTURAL LABOR OR SERV-
2 ICES.—With respect to an employee performing
3 agricultural labor or services, or an employee
4 recruited or referred by a farm labor contractor
5 (as defined in section 3 of the Migrant and Sea-
6 sonal Agricultural Worker Protection Act (29
7 U.S.C. 1801)), subparagraph (A) shall not
8 apply with respect to the reverification of the
9 employee until the date that is 36 months after
10 the date of the enactment of title VIII of divi-
11 sion B of the Secure the Border Act of 2023.
12 For purposes of the preceding sentence, the
13 term ‘agricultural labor or services’ has the
14 meaning given such term by the Secretary of
15 Agriculture in regulations and includes agricul-
16 tural labor as defined in section 3121(g) of the
17 Internal Revenue Code of 1986, agriculture as
18 defined in section 3(f) of the Fair Labor Stand-
19 ards Act of 1938 (29 U.S.C. 203(f)), the han-
20 dling, planting, drying, packing, packaging,
21 processing, freezing, or grading prior to delivery
22 for storage of any agricultural or horticultural
23 commodity in its unmanufactured state, all ac-
24 tivities required for the preparation, processing,
25 or manufacturing of a product of agriculture

1 (as such term is defined in such section 3(f))
2 for further distribution, and activities similar to
3 all the foregoing as they relate to fish or shell-
4 fish facilities. An employee described in this
5 subparagraph shall not be counted for purposes
6 of subparagraph (A).

7 “(C) REVERIFICATION.—Paragraph
8 (1)(C)(ii) shall apply to reverifications pursuant
9 to this paragraph on the same basis as it ap-
10 plies to verifications pursuant to paragraph (1),
11 except that employers shall—

12 “(i) use a form designated or estab-
13 lished by the Secretary by regulation for
14 purposes of this paragraph; and

15 “(ii) retain a paper or electronic
16 version of the form and make it available
17 for inspection by officers of the Depart-
18 ment of Homeland Security, the Depart-
19 ment of Justice, or the Department of
20 Labor during the period beginning on the
21 date the reverification commences and end-
22 ing on the date that is the later of 3 years
23 after the date of such reverification or 1
24 year after the date the individual’s employ-
25 ment is terminated.

1 “(3) PREVIOUSLY HIRED INDIVIDUALS.—

2 “(A) ON A MANDATORY BASIS FOR CER-
3 TAIN EMPLOYEES.—

4 “(i) IN GENERAL.—Not later than the
5 date that is 6 months after the date of the
6 enactment of title VIII of division B of the
7 Secure the Border Act of 2023, an em-
8 ployer shall make an inquiry, as provided
9 in subsection (d), using the verification
10 system to seek verification of the identity
11 and employment eligibility of any indi-
12 vidual described in clause (ii) employed by
13 the employer whose employment eligibility
14 has not been verified under the E-Verify
15 Program described in section 403(a) of the
16 Illegal Immigration Reform and Immigrant
17 Responsibility Act of 1996 (8 U.S.C.
18 1324a note).

19 “(ii) INDIVIDUALS DESCRIBED.—An
20 individual described in this clause is any of
21 the following:

22 “(I) An employee of any unit of
23 a Federal, State, or local government.

24 “(II) An employee who requires a
25 Federal security clearance working in

1 a Federal, State, or local government
2 building, a military base, a nuclear
3 energy site, a weapons site, or an air-
4 port or other facility that requires
5 workers to carry a Transportation
6 Worker Identification Credential
7 (TWIC).

8 “(III) An employee assigned to
9 perform work in the United States
10 under a Federal contract, except that
11 this subclause—

12 “(aa) is not applicable to in-
13 dividuals who have a clearance
14 under Homeland Security Presi-
15 dential Directive 12 (HSPD 12
16 clearance), are administrative or
17 overhead personnel, or are work-
18 ing solely on contracts that pro-
19 vide Commercial Off The Shelf
20 goods or services as set forth by
21 the Federal Acquisition Regu-
22 latory Council, unless they are
23 subject to verification under sub-
24 clause (II); and

1 “(bb) only applies to con-
2 tracts over the simple acquisition
3 threshold as defined in section
4 2.101 of title 48, Code of Federal
5 Regulations.

6 “(B) ON A MANDATORY BASIS FOR MUL-
7 TIPLE USERS OF SAME SOCIAL SECURITY AC-
8 COUNT NUMBER.—In the case of an employer
9 who is required by this subsection to use the
10 verification system described in subsection (d),
11 or has elected voluntarily to use such system,
12 the employer shall make inquiries to the system
13 in accordance with the following:

14 “(i) The Commissioner of Social Secu-
15 rity shall notify annually employees (at the
16 employee address listed on the Wage and
17 Tax Statement) who submit a social secu-
18 rity account number to which more than
19 one employer reports income and for which
20 there is a pattern of unusual multiple use.
21 The notification letter shall identify the
22 number of employers to which income is
23 being reported as well as sufficient infor-
24 mation notifying the employee of the proc-
25 ess to contact the Social Security Adminis-

1 tration Fraud Hotline if the employee be-
2 lieves the employee’s identity may have
3 been stolen. The notice shall not share in-
4 formation protected as private, in order to
5 avoid any recipient of the notice from
6 being in the position to further commit or
7 begin committing identity theft.

8 “(ii) If the person to whom the social
9 security account number was issued by the
10 Social Security Administration has been
11 identified and confirmed by the Commis-
12 sioner, and indicates that the social secu-
13 rity account number was used without
14 their knowledge, the Secretary and the
15 Commissioner shall lock the social security
16 account number for employment eligibility
17 verification purposes and shall notify the
18 employers of the individuals who wrong-
19 fully submitted the social security account
20 number that the employee may not be
21 work eligible.

22 “(iii) Each employer receiving such
23 notification of an incorrect social security
24 account number under clause (ii) shall use
25 the verification system described in sub-

1 section (d) to check the work eligibility sta-
2 tus of the applicable employee within 10
3 business days of receipt of the notification.

4 “(C) ON A VOLUNTARY BASIS.—Subject to
5 paragraph (2), and subparagraphs (A) through
6 (C) of this paragraph, beginning on the date
7 that is 30 days after the date of the enactment
8 of title VIII of division B of the Secure the
9 Border Act of 2023, an employer may make an
10 inquiry, as provided in subsection (d), using the
11 verification system to seek verification of the
12 identity and employment eligibility of any indi-
13 vidual employed by the employer. If an em-
14 ployer chooses voluntarily to seek verification of
15 any individual employed by the employer, the
16 employer shall seek verification of all individ-
17 uals employed at the same geographic location
18 or, at the option of the employer, all individuals
19 employed within the same job category, as the
20 employee with respect to whom the employer
21 seeks voluntarily to use the verification system.
22 An employer’s decision about whether or not
23 voluntarily to seek verification of its current
24 workforce under this subparagraph may not be
25 considered by any government agency in any

1 proceeding, investigation, or review provided for
2 in this Act.

3 “(D) VERIFICATION.—Paragraph
4 (1)(C)(ii) shall apply to verifications pursuant
5 to this paragraph on the same basis as it ap-
6 plies to verifications pursuant to paragraph (1),
7 except that employers shall—

8 “(i) use a form designated or estab-
9 lished by the Secretary by regulation for
10 purposes of this paragraph; and

11 “(ii) retain a paper or electronic
12 version of the form and make it available
13 for inspection by officers of the Depart-
14 ment of Homeland Security, the Depart-
15 ment of Justice, or the Department of
16 Labor during the period beginning on the
17 date the verification commences and end-
18 ing on the date that is the later of 3 years
19 after the date of such verification or 1 year
20 after the date the individual’s employment
21 is terminated.

22 “(4) EARLY COMPLIANCE.—

23 “(A) FORMER E-VERIFY REQUIRED USERS,
24 INCLUDING FEDERAL CONTRACTORS.—Notwith-
25 standing the deadlines in paragraphs (1) and

1 (2), beginning on the date of the enactment of
2 title VIII of division B of the Secure the Border
3 Act of 2023, the Secretary is authorized to
4 commence requiring employers required to par-
5 ticipate in the E-Verify Program described in
6 section 403(a) of the Illegal Immigration Re-
7 form and Immigrant Responsibility Act of 1996
8 (8 U.S.C. 1324a note), including employers re-
9 quired to participate in such program by reason
10 of Federal acquisition laws (and regulations
11 promulgated under those laws, including the
12 Federal Acquisition Regulation), to commence
13 compliance with the requirements of this sub-
14 section (and any additional requirements of
15 such Federal acquisition laws and regulation) in
16 lieu of any requirement to participate in the E-
17 Verify Program.

18 “(B) FORMER E-VERIFY VOLUNTARY
19 USERS AND OTHERS DESIRING EARLY COMPLI-
20 ANCE.—Notwithstanding the deadlines in para-
21 graphs (1) and (2), beginning on the date of
22 the enactment of title VIII of division B of the
23 Secure the Border Act of 2023, the Secretary
24 shall provide for the voluntary compliance with
25 the requirements of this subsection by employ-

1 ers voluntarily electing to participate in the E-
2 Verify Program described in section 403(a) of
3 the Illegal Immigration Reform and Immigrant
4 Responsibility Act of 1996 (8 U.S.C. 1324a
5 note) before such date, as well as by other em-
6 ployers seeking voluntary early compliance.

7 “(5) COPYING OF DOCUMENTATION PER-
8 MITTED.—Notwithstanding any other provision of
9 law, the person or entity may copy a document pre-
10 sented by an individual pursuant to this subsection
11 and may retain the copy, but only (except as other-
12 wise permitted under law) for the purpose of com-
13 plying with the requirements of this subsection.

14 “(6) LIMITATION ON USE OF FORMS.—A form
15 designated or established by the Secretary of Home-
16 land Security under this subsection and any infor-
17 mation contained in or appended to such form, may
18 not be used for purposes other than for enforcement
19 of this Act and any other provision of Federal crimi-
20 nal law.

21 “(7) GOOD FAITH COMPLIANCE.—

22 “(A) IN GENERAL.—Except as otherwise
23 provided in this subsection, a person or entity
24 is considered to have complied with a require-
25 ment of this subsection notwithstanding a tech-

1 nical or procedural failure to meet such require-
2 ment if there was a good faith attempt to com-
3 ply with the requirement.

4 “(B) EXCEPTION IF FAILURE TO CORRECT
5 AFTER NOTICE.—Subparagraph (A) shall not
6 apply if—

7 “(i) the failure is not de minimus;

8 “(ii) the Secretary of Homeland Secu-
9 rity has explained to the person or entity
10 the basis for the failure and why it is not
11 de minimus;

12 “(iii) the person or entity has been
13 provided a period of not less than 30 cal-
14 endar days (beginning after the date of the
15 explanation) within which to correct the
16 failure; and

17 “(iv) the person or entity has not cor-
18 rected the failure voluntarily within such
19 period.

20 “(C) EXCEPTION FOR PATTERN OR PRAC-
21 TICE VIOLATORS.—Subparagraph (A) shall not
22 apply to a person or entity that has engaged or
23 is engaging in a pattern or practice of violations
24 of subsection (a)(1)(A) or (a)(2).

1 “(8) SINGLE EXTENSION OF DEADLINES UPON
2 CERTIFICATION.—In a case in which the Secretary
3 of Homeland Security has certified to the Congress
4 that the employment eligibility verification system
5 required under subsection (d) will not be fully oper-
6 ational by the date that is 6 months after the date
7 of the enactment of title VIII of division B of the
8 Secure the Border Act of 2023, each deadline estab-
9 lished under this section for an employer to make an
10 inquiry using such system shall be extended by 6
11 months. No other extension of such a deadline shall
12 be made except as authorized under paragraph
13 (1)(D)(iv).”.

14 (b) DATE OF HIRE.—Section 274A(h) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1324a(h)) is
16 amended by adding at the end the following:

17 “(4) DEFINITION OF DATE OF HIRE.—As used
18 in this section, the term ‘date of hire’ means the
19 date of actual commencement of employment for
20 wages or other remuneration, unless otherwise speci-
21 fied.”.

22 **SEC. 802. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
23 **TEM.**

24 Section 274A(d) of the Immigration and Nationality
25 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

1 “(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-
2 TEM.—

3 “(1) IN GENERAL.—Patterned on the employ-
4 ment eligibility confirmation system established
5 under section 404 of the Illegal Immigration Reform
6 and Immigrant Responsibility Act of 1996 (8 U.S.C.
7 1324a note), the Secretary of Homeland Security
8 shall establish and administer a verification system
9 through which the Secretary (or a designee of the
10 Secretary, which may be a nongovernmental enti-
11 ty)—

12 “(A) responds to inquiries made by per-
13 sons at any time through a toll-free electronic
14 media concerning an individual’s identity and
15 whether the individual is authorized to be em-
16 ployed; and

17 “(B) maintains records of the inquiries
18 that were made, of verifications provided (or
19 not provided), and of the codes provided to in-
20 quirers as evidence of their compliance with
21 their obligations under this section.

22 “(2) INITIAL RESPONSE.—The verification sys-
23 tem shall provide confirmation or a tentative non-
24 confirmation of an individual’s identity and employ-
25 ment eligibility within 3 working days of the initial

1 inquiry. If providing confirmation or tentative non-
2 confirmation, the verification system shall provide an
3 appropriate code indicating such confirmation or
4 such nonconfirmation.

5 “(3) SECONDARY CONFIRMATION PROCESS IN
6 CASE OF TENTATIVE NONCONFIRMATION.—In cases
7 of tentative nonconfirmation, the Secretary shall
8 specify, in consultation with the Commissioner of
9 Social Security, an available secondary verification
10 process to confirm the validity of information pro-
11 vided and to provide a final confirmation or noncon-
12 firmation not later than 10 working days after the
13 date on which the notice of the tentative noncon-
14 firmation is received by the employee. The Secretary,
15 in consultation with the Commissioner, may extend
16 this deadline once on a case-by-case basis for a pe-
17 riod of 10 working days, and if the time is extended,
18 shall document such extension within the verification
19 system. The Secretary, in consultation with the
20 Commissioner, shall notify the employee and em-
21 ployer of such extension. The Secretary, in consulta-
22 tion with the Commissioner, shall create a standard
23 process of such extension and notification and shall
24 make a description of such process available to the
25 public. When final confirmation or nonconfirmation

1 is provided, the verification system shall provide an
2 appropriate code indicating such confirmation or
3 nonconfirmation.

4 “(4) DESIGN AND OPERATION OF SYSTEM.—
5 The verification system shall be designed and oper-
6 ated—

7 “(A) to maximize its reliability and ease of
8 use by persons and other entities consistent
9 with insulating and protecting the privacy and
10 security of the underlying information;

11 “(B) to respond to all inquiries made by
12 such persons and entities on whether individ-
13 uals are authorized to be employed and to reg-
14 ister all times when such inquiries are not re-
15 ceived;

16 “(C) with appropriate administrative, tech-
17 nical, and physical safeguards to prevent unau-
18 thorized disclosure of personal information;

19 “(D) to have reasonable safeguards against
20 the system’s resulting in unlawful discrimina-
21 tory practices based on national origin or citi-
22 zenship status, including—

23 “(i) the selective or unauthorized use
24 of the system to verify eligibility; or

1 “(ii) the exclusion of certain individ-
2 uals from consideration for employment as
3 a result of a perceived likelihood that addi-
4 tional verification will be required, beyond
5 what is required for most job applicants;

6 “(E) to maximize the prevention of iden-
7 tity theft use in the system; and

8 “(F) to limit the subjects of verification to
9 the following individuals:

10 “(i) Individuals hired, referred, or re-
11 cruited, in accordance with paragraph (1)
12 or (4) of subsection (b).

13 “(ii) Employees and prospective em-
14 ployees, in accordance with paragraph (1),
15 (2), (3), or (4) of subsection (b).

16 “(iii) Individuals seeking to confirm
17 their own employment eligibility on a vol-
18 untary basis.

19 “(5) RESPONSIBILITIES OF COMMISSIONER OF
20 SOCIAL SECURITY.—As part of the verification sys-
21 tem, the Commissioner of Social Security, in con-
22 sultation with the Secretary of Homeland Security
23 (and any designee of the Secretary selected to estab-
24 lish and administer the verification system), shall es-
25 tablish a reliable, secure method, which, within the

1 time periods specified under paragraphs (2) and (3),
2 compares the name and social security account num-
3 ber provided in an inquiry against such information
4 maintained by the Commissioner in order to validate
5 (or not validate) the information provided regarding
6 an individual whose identity and employment eligi-
7 bility must be confirmed, the correspondence of the
8 name and number, and whether the individual has
9 presented a social security account number that is
10 not valid for employment. The Commissioner shall
11 not disclose or release social security information
12 (other than such confirmation or nonconfirmation)
13 under the verification system except as provided for
14 in this section or section 205(c)(2)(I) of the Social
15 Security Act.

16 “(6) RESPONSIBILITIES OF SECRETARY OF
17 HOMELAND SECURITY.—As part of the verification
18 system, the Secretary of Homeland Security (in con-
19 sultation with any designee of the Secretary selected
20 to establish and administer the verification system),
21 shall establish a reliable, secure method, which, with-
22 in the time periods specified under paragraphs (2)
23 and (3), compares the name and alien identification
24 or authorization number (or any other information
25 as determined relevant by the Secretary) which are

1 provided in an inquiry against such information
2 maintained or accessed by the Secretary in order to
3 validate (or not validate) the information provided,
4 the correspondence of the name and number, wheth-
5 er the alien is authorized to be employed in the
6 United States, or to the extent that the Secretary
7 determines to be feasible and appropriate, whether
8 the records available to the Secretary verify the
9 identity or status of a national of the United States.

10 “(7) UPDATING INFORMATION.—The Commis-
11 sioner of Social Security and the Secretary of Home-
12 land Security shall update their information in a
13 manner that promotes the maximum accuracy and
14 shall provide a process for the prompt correction of
15 erroneous information, including instances in which
16 it is brought to their attention in the secondary
17 verification process described in paragraph (3).

18 “(8) LIMITATION ON USE OF THE
19 VERIFICATION SYSTEM AND ANY RELATED SYS-
20 TEMS.—

21 “(A) NO NATIONAL IDENTIFICATION
22 CARD.—Nothing in this section shall be con-
23 strued to authorize, directly or indirectly, the
24 issuance or use of national identification cards

1 or the establishment of a national identification
2 card.

3 “(B) CRITICAL INFRASTRUCTURE.—The
4 Secretary may authorize or direct any person or
5 entity responsible for granting access to, pro-
6 tecting, securing, operating, administering, or
7 regulating part of the critical infrastructure (as
8 defined in section 1016(e) of the Critical Infra-
9 structure Protection Act of 2001 (42 U.S.C.
10 5195c(e))) to use the verification system to the
11 extent the Secretary determines that such use
12 will assist in the protection of the critical infra-
13 structure.

14 “(9) REMEDIES.—If an individual alleges that
15 the individual would not have been dismissed from
16 a job or would have been hired for a job but for an
17 error of the verification mechanism, the individual
18 may seek compensation only through the mechanism
19 of the Federal Tort Claims Act, and injunctive relief
20 to correct such error. No class action may be
21 brought under this paragraph.”.

22 **SEC. 803. RECRUITMENT, REFERRAL, AND CONTINUATION**
23 **OF EMPLOYMENT.**

24 (a) ADDITIONAL CHANGES TO RULES FOR RECRUIT-
25 MENT, REFERRAL, AND CONTINUATION OF EMPLOY-

1 MENT.—Section 274A(a) of the Immigration and Nation-
2 ality Act (8 U.S.C. 1324a(a)) is amended—

3 (1) in paragraph (1)(A), by striking “for a fee”;

4 (2) in paragraph (1), by amending subpara-
5 graph (B) to read as follows:

6 “(B) to hire, continue to employ, or to re-
7 cruit or refer for employment in the United
8 States an individual without complying with the
9 requirements of subsection (b).”; and

10 (3) in paragraph (2), by striking “after hiring
11 an alien for employment in accordance with para-
12 graph (1),” and inserting “after complying with
13 paragraph (1),”.

14 (b) DEFINITION.—Section 274A(h) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
16 by section 801(b) of this title, is further amended by add-
17 ing at the end the following:

18 “(5) DEFINITION OF RECRUIT OR REFER.—As
19 used in this section, the term ‘refer’ means the act
20 of sending or directing a person who is in the United
21 States or transmitting documentation or information
22 to another, directly or indirectly, with the intent of
23 obtaining employment in the United States for such
24 person. Only persons or entities referring for remun-
25 eration (whether on a retainer or contingency

1 basis) are included in the definition, except that
2 union hiring halls that refer union members or non-
3 union individuals who pay union membership dues
4 are included in the definition whether or not they re-
5 ceive remuneration, as are labor service entities or
6 labor service agencies, whether public, private, for-
7 profit, or nonprofit, that refer, dispatch, or other-
8 wise facilitate the hiring of laborers for any period
9 of time by a third party. As used in this section, the
10 term ‘recruit’ means the act of soliciting a person
11 who is in the United States, directly or indirectly,
12 and referring the person to another with the intent
13 of obtaining employment for that person. Only per-
14 sons or entities referring for remuneration (whether
15 on a retainer or contingency basis) are included in
16 the definition, except that union hiring halls that
17 refer union members or nonunion individuals who
18 pay union membership dues are included in this defi-
19 nition whether or not they receive remuneration, as
20 are labor service entities or labor service agencies,
21 whether public, private, for-profit, or nonprofit that
22 recruit, dispatch, or otherwise facilitate the hiring of
23 laborers for any period of time by a third party.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date that is 1 year

1 after the date of the enactment of this Act, except that
2 the amendments made by subsection (a) shall take effect
3 6 months after the date of the enactment of this Act inso-
4 far as such amendments relate to continuation of employ-
5 ment.

6 **SEC. 804. GOOD FAITH DEFENSE.**

7 Section 274A(a)(3) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
9 follows:

10 “(3) GOOD FAITH DEFENSE.—

11 “(A) DEFENSE.—An employer (or person
12 or entity that hires, employs, recruits, or refers
13 (as defined in subsection (h)(5)), or is otherwise
14 obligated to comply with this section) who es-
15 tablishes that it has complied in good faith with
16 the requirements of subsection (b)—

17 “(i) shall not be liable to a job appli-
18 cant, an employee, the Federal Govern-
19 ment, or a State or local government,
20 under Federal, State, or local criminal or
21 civil law for any employment-related action
22 taken with respect to a job applicant or
23 employee in good-faith reliance on informa-
24 tion provided through the system estab-
25 lished under subsection (d); and

1 “(ii) has established compliance with
2 its obligations under subparagraphs (A)
3 and (B) of paragraph (1) and subsection
4 (b) absent a showing by the Secretary of
5 Homeland Security, by clear and con-
6 vincing evidence, that the employer had
7 knowledge that an employee is an unau-
8 thorized alien.

9 “(B) MITIGATION ELEMENT.—For pur-
10 poses of subparagraph (A)(i), if an employer
11 proves by a preponderance of the evidence that
12 the employer uses a reasonable, secure, and es-
13 tablished technology to authenticate the identity
14 of the new employee, that fact shall be taken
15 into account for purposes of determining good
16 faith use of the system established under sub-
17 section (d).

18 “(C) FAILURE TO SEEK AND OBTAIN
19 VERIFICATION.—Subject to the effective dates
20 and other deadlines applicable under subsection
21 (b), in the case of a person or entity in the
22 United States that hires, or continues to em-
23 ploy, an individual, or recruits or refers an indi-
24 vidual for employment, the following require-
25 ments apply:

1 “(i) FAILURE TO SEEK
2 VERIFICATION.—

3 “(I) IN GENERAL.—If the person
4 or entity has not made an inquiry,
5 under the mechanism established
6 under subsection (d) and in accord-
7 ance with the timeframes established
8 under subsection (b), seeking
9 verification of the identity and work
10 eligibility of the individual, the de-
11 fense under subparagraph (A) shall
12 not be considered to apply with re-
13 spect to any employment, except as
14 provided in subclause (II).

15 “(II) SPECIAL RULE FOR FAIL-
16 URE OF VERIFICATION MECHANISM.—
17 If such a person or entity in good
18 faith attempts to make an inquiry in
19 order to qualify for the defense under
20 subparagraph (A) and the verification
21 mechanism has registered that not all
22 inquiries were responded to during the
23 relevant time, the person or entity can
24 make an inquiry until the end of the
25 first subsequent working day in which

1 the verification mechanism registers
2 no nonresponses and qualify for such
3 defense.

4 “(ii) FAILURE TO OBTAIN
5 VERIFICATION.—If the person or entity
6 has made the inquiry described in clause
7 (i)(I) but has not received an appropriate
8 verification of such identity and work eligi-
9 bility under such mechanism within the
10 time period specified under subsection
11 (d)(2) after the time the verification in-
12 quiry was received, the defense under sub-
13 paragraph (A) shall not be considered to
14 apply with respect to any employment after
15 the end of such time period.”.

16 **SEC. 805. PREEMPTION AND STATES' RIGHTS.**

17 Section 274A(h)(2) of the Immigration and Nation-
18 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
19 follows:

20 “(2) PREEMPTION.—

21 “(A) SINGLE, NATIONAL POLICY.—The
22 provisions of this section preempt any State or
23 local law, ordinance, policy, or rule, including
24 any criminal or civil fine or penalty structure,
25 insofar as they may now or hereafter relate to

1 the hiring, continued employment, or status
2 verification for employment eligibility purposes,
3 of unauthorized aliens.

4 “(B) STATE ENFORCEMENT OF FEDERAL
5 LAW.—

6 “(i) BUSINESS LICENSING.—A State,
7 locality, municipality, or political subdivi-
8 sion may exercise its authority over busi-
9 ness licensing and similar laws as a pen-
10 alty for failure to use the verification sys-
11 tem described in subsection (d) to verify
12 employment eligibility when and as re-
13 quired under subsection (b).

14 “(ii) GENERAL RULES.—A State, at
15 its own cost, may enforce the provisions of
16 this section, but only insofar as such State
17 follows the Federal regulations imple-
18 menting this section, applies the Federal
19 penalty structure set out in this section,
20 and complies with all Federal rules and
21 guidance concerning implementation of this
22 section. Such State may collect any fines
23 assessed under this section. An employer
24 may not be subject to enforcement, includ-
25 ing audit and investigation, by both a Fed-

1 eral agency and a State for the same viola-
2 tion under this section. Whichever entity,
3 the Federal agency or the State, is first to
4 initiate the enforcement action, has the
5 right of first refusal to proceed with the
6 enforcement action. The Secretary must
7 provide copies of all guidance, training,
8 and field instructions provided to Federal
9 officials implementing the provisions of
10 this section to each State.”.

11 **SEC. 806. REPEAL.**

12 (a) **IN GENERAL.**—Subtitle A of title IV of the Illegal
13 Immigration Reform and Immigrant Responsibility Act of
14 1996 (8 U.S.C. 1324a note) is repealed.

15 (b) **REFERENCES.**—Any reference in any Federal
16 law, Executive order, rule, regulation, or delegation of au-
17 thority, or any document of, or pertaining to, the Depart-
18 ment of Homeland Security, Department of Justice, or the
19 Social Security Administration, to the employment eligi-
20 bility confirmation system established under section 404
21 of the Illegal Immigration Reform and Immigrant Respon-
22 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to
23 refer to the employment eligibility confirmation system es-
24 tablished under section 274A(d) of the Immigration and
25 Nationality Act, as amended by section 802 of this title.

1 (c) **EFFECTIVE DATE.**—This section shall take effect
2 on the date that is 30 months after the date of the enact-
3 ment of this Act.

4 (d) **CLERICAL AMENDMENT.**—The table of sections,
5 in section 1(d) of the Illegal Immigration Reform and Im-
6 migrant Responsibility Act of 1996, is amended by strik-
7 ing the items relating to subtitle A of title IV.

8 **SEC. 807. PENALTIES.**

9 Section 274A of the Immigration and Nationality Act
10 (8 U.S.C. 1324a) is amended—

11 (1) in subsection (e)(1)—

12 (A) by striking “Attorney General” each
13 place such term appears and inserting “Sec-
14 retary of Homeland Security”; and

15 (B) in subparagraph (D), by striking
16 “Service” and inserting “Department of Home-
17 land Security”;

18 (2) in subsection (e)(4)—

19 (A) in subparagraph (A), in the matter be-
20 fore clause (i), by inserting “, subject to para-
21 graph (10),” after “in an amount”;

22 (B) in subparagraph (A)(i), by striking
23 “not less than \$250 and not more than
24 \$2,000” and inserting “not less than \$2,500
25 and not more than \$5,000”;

1 (C) in subparagraph (A)(ii), by striking
2 “not less than \$2,000 and not more than
3 \$5,000” and inserting “not less than \$5,000
4 and not more than \$10,000”;

5 (D) in subparagraph (A)(iii), by striking
6 “not less than \$3,000 and not more than
7 \$10,000” and inserting “not less than \$10,000
8 and not more than \$25,000”; and

9 (E) by moving the margin of the continu-
10 ation text following subparagraph (B) two ems
11 to the left and by amending subparagraph (B)
12 to read as follows:

13 “(B) may require the person or entity to
14 take such other remedial action as is appro-
15 priate.”;

16 (3) in subsection (e)(5)—

17 (A) in the paragraph heading, strike “PA-
18 PERWORK”;

19 (B) by inserting “, subject to paragraphs
20 (10) through (12),” after “in an amount”;

21 (C) by striking “\$100” and inserting
22 “\$1,000”;

23 (D) by striking “\$1,000” and inserting
24 “\$25,000”; and

1 (E) by adding at the end the following:

2 “Failure by a person or entity to utilize the em-
3 ployment eligibility verification system as re-
4 quired by law, or providing information to the
5 system that the person or entity knows or rea-
6 sonably believes to be false, shall be treated as
7 a violation of subsection (a)(1)(A).”;

8 (4) by adding at the end of subsection (e) the
9 following:

10 “(10) EXEMPTION FROM PENALTY FOR GOOD
11 FAITH VIOLATION.—In the case of imposition of a
12 civil penalty under paragraph (4)(A) with respect to
13 a violation of subsection (a)(1)(A) or (a)(2) for hir-
14 ing or continuation of employment or recruitment or
15 referral by person or entity and in the case of impo-
16 sition of a civil penalty under paragraph (5) for a
17 violation of subsection (a)(1)(B) for hiring or re-
18 cruitment or referral by a person or entity, the pen-
19 alty otherwise imposed may be waived or reduced if
20 the violator establishes that the violator acted in
21 good faith.

22 “(11) MITIGATION ELEMENT.—For purposes of
23 paragraph (4), the size of the business shall be
24 taken into account when assessing the level of civil
25 money penalty.

1 “(12) AUTHORITY TO DEBAR EMPLOYERS FOR
2 CERTAIN VIOLATIONS.—

3 “(A) IN GENERAL.—If a person or entity
4 is determined by the Secretary of Homeland Se-
5 curity to be a repeat violator of paragraph
6 (1)(A) or (2) of subsection (a), or is convicted
7 of a crime under this section, such person or
8 entity may be considered for debarment from
9 the receipt of Federal contracts, grants, or co-
10 operative agreements in accordance with the de-
11 barment standards and pursuant to the debar-
12 ment procedures set forth in the Federal Acqui-
13 sition Regulation.

14 “(B) DOES NOT HAVE CONTRACT, GRANT,
15 AGREEMENT.—If the Secretary of Homeland
16 Security or the Attorney General wishes to have
17 a person or entity considered for debarment in
18 accordance with this paragraph, and such a
19 person or entity does not hold a Federal con-
20 tract, grant, or cooperative agreement, the Sec-
21 retary or Attorney General shall refer the mat-
22 ter to the Administrator of General Services to
23 determine whether to list the person or entity
24 on the List of Parties Excluded from Federal

1 Procurement, and if so, for what duration and
2 under what scope.

3 “(C) HAS CONTRACT, GRANT, AGREE-
4 MENT.—If the Secretary of Homeland Security
5 or the Attorney General wishes to have a per-
6 son or entity considered for debarment in ac-
7 cordance with this paragraph, and such person
8 or entity holds a Federal contract, grant, or co-
9 operative agreement, the Secretary or Attorney
10 General shall advise all agencies or departments
11 holding a contract, grant, or cooperative agree-
12 ment with the person or entity of the Govern-
13 ment’s interest in having the person or entity
14 considered for debarment, and after soliciting
15 and considering the views of all such agencies
16 and departments, the Secretary or Attorney
17 General may refer the matter to any appro-
18 priate lead agency to determine whether to list
19 the person or entity on the List of Parties Ex-
20 cluded from Federal Procurement, and if so, for
21 what duration and under what scope.

22 “(D) REVIEW.—Any decision to debar a
23 person or entity in accordance with this para-
24 graph shall be reviewable pursuant to part 9.4
25 of the Federal Acquisition Regulation.

1 “(13) OFFICE FOR STATE AND LOCAL GOVERN-
2 MENT COMPLAINTS.—The Secretary of Homeland
3 Security shall establish an office—

4 “(A) to which State and local government
5 agencies may submit information indicating po-
6 tential violations of subsection (a), (b), or
7 (g)(1) that were generated in the normal course
8 of law enforcement or the normal course of
9 other official activities in the State or locality;

10 “(B) that is required to indicate to the
11 complaining State or local agency within five
12 business days of the filing of such a complaint
13 by identifying whether the Secretary will fur-
14 ther investigate the information provided;

15 “(C) that is required to investigate those
16 complaints filed by State or local government
17 agencies that, on their face, have a substantial
18 probability of validity;

19 “(D) that is required to notify the com-
20 plaining State or local agency of the results of
21 any such investigation conducted; and

22 “(E) that is required to report to the Con-
23 gress annually the number of complaints re-
24 ceived under this paragraph, the States and lo-
25 calities that filed such complaints, and the reso-

1 lution of the complaints investigated by the Sec-
2 retary.”; and

3 (5) by amending paragraph (1) of subsection (f)
4 to read as follows:

5 “(1) CRIMINAL PENALTY.—Any person or enti-
6 ty which engages in a pattern or practice of viola-
7 tions of subsection (a) (1) or (2) shall be fined not
8 more than \$5,000 for each unauthorized alien with
9 respect to which such a violation occurs, imprisoned
10 for not more than 18 months, or both, notwith-
11 standing the provisions of any other Federal law re-
12 lating to fine levels.”.

13 **SEC. 808. FRAUD AND MISUSE OF DOCUMENTS.**

14 Section 1546(b) of title 18, United States Code, is
15 amended—

16 (1) in paragraph (1), by striking “identification
17 document,” and inserting “identification document
18 or document meant to establish work authorization
19 (including the documents described in section
20 274A(b) of the Immigration and Nationality Act),”;
21 and

22 (2) in paragraph (2), by striking “identification
23 document” and inserting “identification document or
24 document meant to establish work authorization (in-

1 including the documents described in section 274A(b)
2 of the Immigration and Nationality Act),”.

3 **SEC. 809. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
4 **TION PROGRAMS.**

5 (a) **FUNDING UNDER AGREEMENT.**—Effective for
6 fiscal years beginning on or after October 1, 2023, the
7 Commissioner of Social Security and the Secretary of
8 Homeland Security shall enter into and maintain an
9 agreement which shall—

10 (1) provide funds to the Commissioner for the
11 full costs of the responsibilities of the Commissioner
12 under section 274A(d) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1324a(d)), as amended by
14 section 802 of this title, including—

15 (A) acquiring, installing, and maintaining
16 technological equipment and systems necessary
17 for the fulfillment of the responsibilities of the
18 Commissioner under such section 274A(d), but
19 only that portion of such costs that are attrib-
20 utable exclusively to such responsibilities; and

21 (B) responding to individuals who contest
22 a tentative nonconfirmation provided by the em-
23 ployment eligibility verification system estab-
24 lished under such section;

1 (2) provide such funds annually in advance of
2 the applicable quarter based on estimating method-
3 ology agreed to by the Commissioner and the Sec-
4 retary (except in such instances where the delayed
5 enactment of an annual appropriation may preclude
6 such quarterly payments); and

7 (3) require an annual accounting and reconcili-
8 ation of the actual costs incurred and the funds pro-
9 vided under the agreement, which shall be reviewed
10 by the Inspectors General of the Social Security Ad-
11 ministration and the Department of Homeland Secu-
12 rity.

13 (b) CONTINUATION OF EMPLOYMENT VERIFICATION
14 IN ABSENCE OF TIMELY AGREEMENT.—In any case in
15 which the agreement required under subsection (a) for any
16 fiscal year beginning on or after October 1, 2023, has not
17 been reached as of October 1 of such fiscal year, the latest
18 agreement between the Commissioner and the Secretary
19 of Homeland Security providing for funding to cover the
20 costs of the responsibilities of the Commissioner under
21 section 274A(d) of the Immigration and Nationality Act
22 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-
23 terim basis for such fiscal year until such time as an
24 agreement required under subsection (a) is subsequently
25 reached, except that the terms of such interim agreement

1 shall be modified by the Director of the Office of Manage-
2 ment and Budget to adjust for inflation and any increase
3 or decrease in the volume of requests under the employ-
4 ment eligibility verification system. In any case in which
5 an interim agreement applies for any fiscal year under this
6 subsection, the Commissioner and the Secretary shall, not
7 later than October 1 of such fiscal year, notify the Com-
8 mittee on Ways and Means, the Committee on the Judici-
9 ary, and the Committee on Appropriations of the House
10 of Representatives and the Committee on Finance, the
11 Committee on the Judiciary, and the Committee on Ap-
12 propriations of the Senate of the failure to reach the
13 agreement required under subsection (a) for such fiscal
14 year. Until such time as the agreement required under
15 subsection (a) has been reached for such fiscal year, the
16 Commissioner and the Secretary shall, not later than the
17 end of each 90-day period after October 1 of such fiscal
18 year, notify such Committees of the status of negotiations
19 between the Commissioner and the Secretary in order to
20 reach such an agreement.

21 **SEC. 810. FRAUD PREVENTION.**

22 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
23 **NUMBERS.**—The Secretary of Homeland Security, in con-
24 sultation with the Commissioner of Social Security, shall
25 establish a program in which social security account num-

1 bers that have been identified to be subject to unusual
2 multiple use in the employment eligibility verification sys-
3 tem established under section 274A(d) of the Immigration
4 and Nationality Act (8 U.S.C. 1324a(d)), as amended by
5 section 802 of this title, or that are otherwise suspected
6 or determined to have been compromised by identity fraud
7 or other misuse, shall be blocked from use for such system
8 purposes unless the individual using such number is able
9 to establish, through secure and fair additional security
10 procedures, that the individual is the legitimate holder of
11 the number.

12 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
13 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
14 Homeland Security, in consultation with the Commis-
15 sioner of Social Security, shall establish a program which
16 shall provide a reliable, secure method by which victims
17 of identity fraud and other individuals may suspend or
18 limit the use of their social security account number or
19 other identifying information for purposes of the employ-
20 ment eligibility verification system established under sec-
21 tion 274A(d) of the Immigration and Nationality Act (8
22 U.S.C. 1324a(d)), as amended by section 802 of this title.
23 The Secretary may implement the program on a limited
24 pilot program basis before making it fully available to all
25 individuals.

1 (c) ALLOWING PARENTS TO PREVENT THEFT OF
2 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
3 Security, in consultation with the Commissioner of Social
4 Security, shall establish a program which shall provide a
5 reliable, secure method by which parents or legal guard-
6 ians may suspend or limit the use of the social security
7 account number or other identifying information of a
8 minor under their care for the purposes of the employment
9 eligibility verification system established under 274A(d) of
10 the Immigration and Nationality Act (8 U.S.C. 1324a(d)),
11 as amended by section 802 of this title. The Secretary may
12 implement the program on a limited pilot program basis
13 before making it fully available to all individuals.

14 **SEC. 811. USE OF EMPLOYMENT ELIGIBILITY**
15 **VERIFICATION PHOTO TOOL.**

16 An employer who uses the photo matching tool used
17 as part of the E-Verify System shall match the photo tool
18 photograph to both the photograph on the identity or em-
19 ployment eligibility document provided by the employee
20 and to the face of the employee submitting the document
21 for employment verification purposes.

22 **SEC. 812. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-**
23 **BILITY VERIFICATION PILOT PROGRAMS.**

24 Not later than 24 months after the date of the enact-
25 ment of this Act, the Secretary of Homeland Security,

1 after consultation with the Commissioner of Social Secu-
2 rity and the Director of the National Institute of Stand-
3 ards and Technology, shall establish by regulation not less
4 than 2 Identity Authentication Employment Eligibility
5 Verification pilot programs, each using a separate and dis-
6 tinct technology (the “Authentication Pilots”). The pur-
7 pose of the Authentication Pilots shall be to provide for
8 identity authentication and employment eligibility
9 verification with respect to enrolled new employees which
10 shall be available to any employer that elects to participate
11 in either of the Authentication Pilots. Any participating
12 employer may cancel the employer’s participation in the
13 Authentication Pilot after one year after electing to par-
14 ticipate without prejudice to future participation. The Sec-
15 retary shall report to the Committee on the Judiciary of
16 the House of Representatives and the Committee on the
17 Judiciary of the Senate the Secretary’s findings on the
18 Authentication Pilots, including the authentication tech-
19 nologies chosen, not later than 12 months after com-
20 mencement of the Authentication Pilots.

21 **SEC. 813. INSPECTOR GENERAL AUDITS.**

22 (a) IN GENERAL.—Not later than 1 year after the
23 date of the enactment of this Act, the Inspector General
24 of the Social Security Administration shall complete audits
25 of the following categories in order to uncover evidence

1 of individuals who are not authorized to work in the
2 United States:

3 (1) Workers who dispute wages reported on
4 their social security account number when they be-
5 lieve someone else has used such number and name
6 to report wages.

7 (2) Children's social security account numbers
8 used for work purposes.

9 (3) Employers whose workers present signifi-
10 cant numbers of mismatched social security account
11 numbers or names for wage reporting.

12 (b) SUBMISSION.—The Inspector General of the So-
13 cial Security Administration shall submit the audits com-
14 pleted under subsection (a) to the Committee on Ways and
15 Means of the House of Representatives and the Committee
16 on Finance of the Senate for review of the evidence of
17 individuals who are not authorized to work in the United
18 States. The Chairmen of those Committees shall then de-
19 termine information to be shared with the Secretary of
20 Homeland Security so that such Secretary can investigate
21 the unauthorized employment demonstrated by such evi-
22 dence.

23 **SEC. 814. AGRICULTURE WORKFORCE STUDY.**

24 Not later than 36 months after the date of the enact-
25 ment of this Act, the Secretary of the Department of

1 Homeland Security, in consultation with the Secretary of
2 the Department of Agriculture, shall submit to the Com-
3 mittee on the Judiciary of the House of Representatives
4 and the Committee on the Judiciary of the Senate, a re-
5 port that includes the following:

6 (1) The number of individuals in the agricul-
7 tural workforce.

8 (2) The number of United States citizens in the
9 agricultural workforce.

10 (3) The number of aliens in the agricultural
11 workforce who are authorized to work in the United
12 States.

13 (4) The number of aliens in the agricultural
14 workforce who are not authorized to work in the
15 United States.

16 (5) Wage growth in each of the previous ten
17 years, disaggregated by agricultural sector.

18 (6) The percentage of total agricultural indus-
19 try costs represented by agricultural labor during
20 each of the last ten years.

21 (7) The percentage of agricultural costs in-
22 vested in mechanization during each of the last ten
23 years.

24 (8) Recommendations, other than a path to
25 legal status for aliens not authorized to work in the

1 United States, for ensuring United States agricul-
2 tural employers have a workforce sufficient to cover
3 industry needs, including recommendations to—

4 (A) increase investments in mechanization;

5 (B) increase the domestic workforce; and

6 (C) reform the H-2A program.

7 **SEC. 815. SENSE OF CONGRESS ON FURTHER IMPLEMENTA-**
8 **TION.**

9 It is the sense of Congress that in implementing the
10 E-Verify Program, the Secretary of Homeland Security
11 shall ensure any adverse impact on the Nation’s agricul-
12 tural workforce, operations, and food security are consid-
13 ered and addressed.

14 **SEC. 816. REPEALING REGULATIONS.**

15 The rules relating to “Temporary Agricultural Em-
16 ployment of H-2A Nonimmigrants in the United States”
17 (87 Fed. Reg. 61660 (Oct. 12, 2022)) and to “Adverse
18 Effect Wage Rate Methodology for the Temporary Em-
19 ployment of H-2A Nonimmigrants in Non-Range Occupa-
20 tions in the United States” (88 Fed. Reg. 12760 (Feb.
21 28, 2023)) shall have no force or effect, may not be re-
22 issued in substantially the same form, and any new rules

1 that are substantially the same as such rules may not be
2 issued.

Passed the House of Representatives May 11, 2023.

Attest: CHERYL L. JOHNSON,
Clerk.

Calendar No. 71

118TH CONGRESS
1ST Session

H. R. 2

AN ACT

To secure the borders of the United States, and for
other purposes.

MAY 16, 2023

Read the second time and placed on the calendar