

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

Making emergency supplemental appropriations for border security and combatting fentanyl for the fiscal year ending September 30, 2024, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY \_\_\_\_\_, 2024

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

Making emergency supplemental appropriations for border security and combatting fentanyl for the fiscal year ending September 30, 2024, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Border Act of 2024”.

5 **SEC. 2. TABLE OF CONTENTS.**

6 The table of contents of this Act is as follows:

- Sec. 1. Short Title.
- Sec. 2. Table of Contents.
- Sec. 3. References.

DIVISION A—BORDER SECURITY AND COMBATTING FENTANYL  
SUPPLEMENTAL APPROPRIATIONS ACT, 2024

DIVISION B—BORDER ACT

1 **SEC. 3. REFERENCES.**

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

1 **DIVISION A—BORDER SECURITY AND**  
2 **COMBATTING FENTANYL SUPPLE-**  
3 **MENTAL APPROPRIATIONS ACT, 2024**

4 The following sums are appropriated, out of any  
5 money in the Treasury not otherwise appropriated, for the  
6 fiscal year ending September 30, 2024, and for other pur-  
7 poses, namely:

8 **TITLE I**

9 **DEPARTMENT OF JUSTICE**

10 **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

11 For an additional amount for “Executive Office for  
12 Immigration Review”, \$440,000,000, to remain available  
13 until September 30, 2026: *Provided*, That of the total  
14 amounts provided under this heading in this Act,  
15 \$404,000,000 shall be for Immigration Judge Teams, in-  
16 cluding appropriate attorneys, law clerks, paralegals, court  
17 administrators, and other support staff, as well as nec-  
18 essary court and adjudicatory costs, and \$36,000,000  
19 shall be for representation for certain incompetent adults  
20 pursuant to section 240(e) of the Immigration and Na-  
21 tionality Act (8 U.S.C. 1229a(e)): *Provided further*, That  
22 not more than 3 percent of the funds available for rep-  
23 resentation for certain incompetent adults in the preceding  
24 proviso shall be available for necessary administrative ex-  
25 penses: *Provided further*, That with the exception of immi-

1 gration judges appointed pursuant to section 1003.10 of  
2 title 8, Code of Federal Regulations, amounts provided  
3 under this heading in this Act for Immigration Judge  
4 Teams may not be used to increase the number of perma-  
5 nent positions: *Provided further*, That the Executive Office  
6 for Immigration Review shall submit a spending plan to  
7 the Committees on Appropriations of the House of Rep-  
8 resentatives and the Senate within 45 days after the date  
9 of enactment of this Act: *Provided further*, That such  
10 amount is designated by the Congress as being for an  
11 emergency requirement pursuant to section  
12 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
13 Deficit Control Act of 1985.

14 LEGAL ACTIVITIES

15 SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

16 For an additional amount for “Salaries and Ex-  
17 penses, General Legal Activities”, \$11,800,000, to remain  
18 available until September 30, 2026, for necessary expenses  
19 of the Criminal Division associated with the Joint Task  
20 Force Alpha’s efforts to combat human trafficking and  
21 smuggling in the Western Hemisphere: *Provided*, That  
22 such amount is designated by the Congress as being for  
23 an emergency requirement pursuant to section  
24 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
25 Deficit Control Act of 1985.

## 1 UNITED STATES MARSHALS SERVICE

## 2 FEDERAL PRISONER DETENTION

3 For an additional amount for “United States Mar-  
4 shals Service—Federal Prisoner Detention”,  
5 \$210,000,000, to remain available until expended, for de-  
6 tention costs due to enforcement activities along the south-  
7 ern and northern borders: *Provided*, That such amount is  
8 designated by the Congress as being for an emergency re-  
9 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
10 anced Budget and Emergency Deficit Control Act of 1985.

## 11 FEDERAL BUREAU OF INVESTIGATION

## 12 SALARIES AND EXPENSES

13 For an additional amount for “Federal Bureau of In-  
14 vestigation—Salaries and Expenses”, \$204,000,000, to  
15 remain available until September 30, 2026, for expenses  
16 related to the analysis of DNA samples, including those  
17 samples collected from migrants detained by the United  
18 States Border Patrol: *Provided*, That such amount is des-  
19 ignated by the Congress as being for an emergency re-  
20 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
21 anced Budget and Emergency Deficit Control Act of 1985.

## 22 DRUG ENFORCEMENT ADMINISTRATION

## 23 SALARIES AND EXPENSES

24 For an additional amount for “Drug Enforcement  
25 Administration—Salaries and Expenses”, \$23,200,000, to

1 remain available until September 30, 2026, to enhance  
2 laboratory analysis of illicit fentanyl samples to trace illicit  
3 fentanyl supplies back to manufacturers, to support Oper-  
4 ation Overdrive, and to bolster criminal drug network tar-  
5 geting efforts through data system improvements: *Pro-*  
6 *vided*, That such amount is designated by the Congress  
7 as being for an emergency requirement pursuant to sec-  
8 tion 251(b)(2)(A)(i) of the Balanced Budget and Emer-  
9 gency Deficit Control Act of 1985.

1 TITLE II  
2 DEPARTMENT OF HOMELAND SECURITY  
3 DEPARTMENTAL MANAGEMENT, INTEL-  
4 LIGENCE, SITUATIONAL AWARENESS, AND  
5 OVERSIGHT  
6 OFFICE OF THE SECRETARY AND EXECUTIVE  
7 MANAGEMENT  
8 OPERATIONS AND SUPPORT

9 For an additional amount for “Office of the Secretary  
10 and Executive Management—Operations and Support”,  
11 \$33,000,000, to remain available until September 30,  
12 2026, of which \$30,000,000 shall be for necessary ex-  
13 penses relating to monitoring, recording, analyzing, public  
14 reporting on, and projecting migration flows and the im-  
15 pacts policy changes and funding have on flows and re-  
16 lated resource requirements for border security, immigra-  
17 tion enforcement, and immigration services and of which  
18 \$3,000,000 shall be for the Office of the Immigration De-  
19 tention Ombudsman for reporting and oversight relating  
20 to expanded detention capacity: *Provided*, That such  
21 amount is designated by the Congress as being for an  
22 emergency requirement pursuant to section  
23 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
24 Deficit Control Act of 1985.

1                   SECURITY, ENFORCEMENT, AND  
2                   INVESTIGATIONS  
3                   U.S. CUSTOMS AND BORDER PROTECTION  
4                   OPERATIONS AND SUPPORT  
5                   (INCLUDING TRANSFER OF FUNDS)

6           For an additional amount for “U.S. Customs and  
7 Border    Protection—Operations    and    Support”,  
8 \$4,001,239,000, to remain available until September 30,  
9 2026: *Provided*, That of the total amount provided under  
10 this heading in this Act, \$2,091,363,000 shall be for oper-  
11 ational requirements relating to migration surges along  
12 the southwest border, counter-fentanyl activities, nec-  
13 essary expenses at ports of entry, reimbursement to the  
14 Department of Defense for border operations support, and  
15 other related expenses; \$1,134,876,000 shall be for the  
16 hiring of U.S. Customs and Border Protection personnel;  
17 \$25,000,000 shall be for familial DNA testing; and  
18 \$750,000,000 shall be transferred to “Federal Emergency  
19 Management Agency—Federal Assistance” to support  
20 sheltering and related activities provided by non-Federal  
21 entities through the Shelter and Services Program: *Pro-*  
22 *vided further*, That such amount is designated by the Con-  
23 gress as being for an emergency requirement pursuant to  
24 section 251(b)(2)(A)(i) of the Balanced Budget and  
25 Emergency Deficit Control Act of 1985.



## 1     PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

2           For an additional amount for “U.S. Customs and  
3 Border Protection—Procurement, Construction, and Im-  
4 provements”, \$2,334,000,000, to remain available until  
5 September 30, 2027: *Provided*, That of the total amount  
6 provided under this heading in this Act, \$2,000,000,000  
7 shall be for acquisition and deployment of non-intrusive  
8 inspection technology, \$260,000,000 shall be for acquisi-  
9 tion and deployment of border security technology, and  
10 \$74,000,000 shall be for acquisition and deployment of air  
11 assets: *Provided further*, That such amount is designated  
12 by the Congress as being for an emergency requirement  
13 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
14 et and Emergency Deficit Control Act of 1985.

## 15     U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

## 16                     OPERATIONS AND SUPPORT

17           For an additional amount for “U.S. Immigration and  
18 Customs Enforcement—Operations and Support”,  
19 \$6,043,876,000, to remain available until September 30,  
20 2026: *Provided*, That of the total amount provided under  
21 this heading in this Act, \$1,671,614,000 shall be for in-  
22 creased custodial detention capacity, \$2,465,643,000 shall  
23 be for increased removal flights and related activities, in-  
24 cluding short-term staging facilities, \$415,752,000 shall  
25 be for hiring U.S. Immigration and Customs Enforcement

1 personnel, \$203,765,000 shall be for counter fentanyl in-  
2 vestigations and enforcement, and \$1,287,102,000 shall  
3 be for increased enrollment capabilities and related activi-  
4 ties within the Alternatives to Detention program: *Pro-*  
5 *vided further*, That such amount is designated by the Con-  
6 gress as being for an emergency requirement pursuant to  
7 section 251(b)(2)(A)(i) of the Balanced Budget and  
8 Emergency Deficit Control Act of 1985.

9 PROTECTION, PREPAREDNESS, RESPONSE, AND

10 RECOVERY

11 FEDERAL EMERGENCY MANAGEMENT AGENCY

12 FEDERAL ASSISTANCE

13 For an additional amount for “Federal Emergency  
14 Management Agency—Federal Assistance”,  
15 \$100,000,000, to remain available until September 30,  
16 2025, for Operation Stonegarden: *Provided*, That not less  
17 than 25 percent of the total amount provided under this  
18 heading in this Act shall be for States other than those  
19 located along the southwest border: *Provided further*, That  
20 such amount is designated by the Congress as being for  
21 an emergency requirement pursuant to section  
22 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
23 Deficit Control Act of 1985.

1 RESEARCH, DEVELOPMENT, TRAINING, AND  
2 SERVICES

3 U.S. CITIZENSHIP AND IMMIGRATION SERVICES  
4 OPERATIONS AND SUPPORT

5 For an additional amount for “U.S. Citizenship and  
6 Immigration Services—Operations and Support”,  
7 \$3,995,842,000, to remain available until September 30,  
8 2026: *Provided*, That of the total amount provided under  
9 this heading in this Act, \$3,383,262,000 shall be for hir-  
10 ing and associated costs, \$112,580,000 shall be for non-  
11 personnel operations, including transcription services, and  
12 \$500,000,000 shall be for facilities: *Provided further*, That  
13 such amounts shall be in addition to any other amounts  
14 made available for such purposes, and shall not be con-  
15 strued to require any reduction of any fee described in  
16 section 286(m) of the Immigration and Nationality Act  
17 (8 U.S.C. 1356(m)): *Provided further*, That such amount  
18 is designated by the Congress as being for an emergency  
19 requirement pursuant to section 251(b)(2)(A)(i) of the  
20 Balanced Budget and Emergency Deficit Control Act of  
21 1985.

22 FEDERAL LAW ENFORCEMENT TRAINING CENTERS  
23 OPERATIONS AND SUPPORT

24 For an additional amount for “Federal Law Enforce-  
25 ment Training Centers—Operations and Support”,

1 \$50,703,000, to remain available until September 30,  
2 2026: *Provided*, That of the total amount provided under  
3 this heading in this Act, \$49,603,000 shall be for training-  
4 related expenses, to include instructors, tuition, and over-  
5 head costs associated with the delivery of basic law en-  
6 forcement training and \$1,100,000 shall be for the nec-  
7 essary mission support activities and facility maintenance  
8 required for law enforcement training: *Provided further*,  
9 That such amount is designated by the Congress as being  
10 for an emergency requirement pursuant to section  
11 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
12 Deficit Control Act of 1985.

13           GENERAL PROVISIONS—THIS TITLE

14           SEC. 201. (a) The Secretary shall, by March 1, 2025,  
15 and quarterly thereafter, provide to the Committees on  
16 Appropriations of the House of Representatives and the  
17 Senate a report describing changes in performance metrics  
18 and operational capabilities relating to border security, im-  
19 migration enforcement, and immigration services, and the  
20 relationship of those changes to actual and projected en-  
21 counters on the southwest border.

22           (b) The report required by subsection (a) shall also  
23 include an analytic assessment of how policy changes and  
24 resources provided in this title of this Act impact effi-  
25 ciencies and resource needs for—

1 (1) other programs within the Department; and

2 (2) other Federal Departments and agencies.

3 SEC. 202. (a) Amounts made available in this Act  
4 under the heading “U.S. Customs and Border Protec-  
5 tion—Procurement, Construction, and Improvements” for  
6 acquisition and deployment of border security technology  
7 shall be available only as follows:

8 (1) \$170,000,000 for the procurement and de-  
9 ployment of autonomous surveillance towers systems  
10 in locations that are not currently covered by such  
11 systems or technology, as defined in subsection (d);

12 (2) \$47,500,000 for the procurement and de-  
13 ployment of mobile surveillance capabilities, includ-  
14 ing mobile video surveillance systems and for obso-  
15 lete mobile surveillance equipment replacement,  
16 counter-UAS, and small unmanned aerial systems;

17 (3) \$25,000,000 for subterranean detection ca-  
18 pabilities;

19 (4) \$7,500,000 for seamless integrated commu-  
20 nications to extend connectivity for Border Patrol  
21 agents; and

22 (5) \$10,000,000 for the acquisition of data  
23 from long duration unmanned surface vehicles in  
24 support of maritime border security.

1 (b) None of the funds available under subsection  
2 (a)(1) shall be used for the procurement or deployment  
3 of border security technology that is not autonomous.

4 (c) For the purposes of this section, “autonomous”  
5 and “autonomous surveillance tower systems” are defined  
6 as integrated software and/or hardware systems that uti-  
7 lize sensors, onboard computing, and artificial intelligence  
8 to identify items of interest that would otherwise be manu-  
9 ally identified by personnel.

10 (d) Not later than 90 days after the date of enact-  
11 ment of this Act, and monthly thereafter, U.S. Customs  
12 and Border Protection shall provide to the Committees on  
13 Appropriations of the House of Representatives and the  
14 Senate an expenditure plan for the use of the funds avail-  
15 able under subsection (a)(1) and such expenditure plan  
16 shall include the following:

17 (1) the number and type of systems that will be  
18 procured;

19 (2) the U.S. Border Patrol sectors where each  
20 system will be deployed;

21 (3) a timeline for system deployments, including  
22 a timeline for securing necessary approvals and land  
23 rights;

24 (4) estimated annual sustainment costs for the  
25 systems; and

1 (5) other supporting information.

2 SEC. 203. (a) Amounts made available in this Act  
3 under the heading “U.S. Customs and Border Protec-  
4 tion—Procurement, Construction, and Improvements” for  
5 acquisition and deployment of non-intrusive inspection  
6 technology shall be available only through an open com-  
7 petition occurring after the date of enactment of this Act  
8 to acquire innovative technologies that improve perform-  
9 ance, including through the integration of artificial intel-  
10 ligence and machine learning capabilities.

11 (b) Beginning on March 1, 2025, the Commissioner  
12 of U.S. Customs and Border Protection shall provide to  
13 the Committees on Appropriations of the House of Rep-  
14 resentatives and the Senate a quarterly update on the im-  
15 pacts of deployments of additional non-intrusive inspection  
16 technology on key performance metrics and operational ca-  
17 pabilities and such expenditure plan shall include the fol-  
18 lowing:

19 (1) the percentage of passenger and cargo vehi-  
20 cles scanned;

21 (2) the percentage of seizures of narcotics, cur-  
22 rency, weapons, and ammunition, and other illicit  
23 items at inbound and outbound operations at ports  
24 of entry, checkpoints, and other locations as applica-  
25 ble; and

1           (3) the impact on U.S. Customs and Border  
2           Protection workforce requirements resulting from  
3           the deployment of additional non-intrusive inspection  
4           technology.

5           SEC. 204. (a) Not later than 30 days after the date  
6           of enactment of this Act, the Under Secretary for Manage-  
7           ment at the Department of Homeland Security shall pro-  
8           vide to the Committees on Appropriations of the House  
9           of Representatives and the Senate an expenditure and hir-  
10          ing plan for amounts made available in this title of this  
11          Act.

12          (b) The plan required in subsection (a) shall not  
13          apply to funds made available in this Act under the head-  
14          ing “Federal Emergency Management Agency—Federal  
15          Assistance” or to funds transferred by this Act to such  
16          heading.

17          (c) The plan required in subsection (a) shall be up-  
18          dated and submitted to the Committees on Appropriations  
19          of the House of Representatives and the Senate every 30  
20          days and no later than the 5th day of each month to re-  
21          flect changes to the plan and expenditures of funds until  
22          all funds made available in this title of this Act are ex-  
23          pended or have expired.



1 (d) None of the funds made available in this title of  
2 this Act may be obligated prior to the submission of such  
3 plan.

4 SEC. 205. The remaining unobligated balances, as of  
5 the date of enactment of this Act, from amounts made  
6 available under the heading “U.S. Customs and Border  
7 Protection—Procurement, Construction, and Improve-  
8 ments” in division D of the Consolidated Appropriations  
9 Act, 2020 (Public Law 116–93) and described in section  
10 209(a)(1) of such division of that Act and division F of  
11 the Consolidated Appropriations Act, 2021 (Public Law  
12 116–260) and described in section 210 of such division  
13 of that Act are hereby rescinded, and an amount of addi-  
14 tional new budget authority equivalent to the amount re-  
15 scinded pursuant to this section is hereby appropriated,  
16 for an additional amount for fiscal year 2024, to remain  
17 available until September 30, 2028, and shall be available  
18 for the same purposes and under the same authorities and  
19 conditions for which such amounts were originally pro-  
20 vided in such Acts: *Provided*, That none of the funds allo-  
21 cated for pedestrian physical barriers pursuant to this sec-  
22 tion may be made available for any purpose other than  
23 the construction of steel bollard pedestrian barrier built  
24 at least 18 to 30 feet in effective height and augmented  
25 with anti-climb and anti-dig features: *Provided further*,

1 That for purposes of this section, the term “effective  
2 height” refers to the height above the level of the adjacent  
3 terrain features: *Provided further*, That none of the funds  
4 allocated for pedestrian physical barriers pursuant to this  
5 section may be made available for any purpose other than  
6 construction of pedestrian barriers consistent with the de-  
7 scription in the first proviso at locations identified in the  
8 Border Security Improvement Plan submitted to Congress  
9 on August 1, 2020: *Provided further*, That the Commis-  
10 sioner of U.S. Customs and Border Protection may  
11 reprioritize the construction of physical barriers outlined  
12 in the Border Security Improvement Plan and, with prior  
13 approval of the Committees on Appropriations of the  
14 House of Representatives and the Senate, add additional  
15 miles of pedestrian physical barriers where no such bar-  
16 riers exist, prioritized by operational requirements devel-  
17 oped in coordination with U.S. Border Patrol leadership:  
18 *Provided further*, That within 180 days of the date of en-  
19 actment of this Act, the Secretary shall submit a report  
20 to the Committees on Appropriations of the House of Rep-  
21 resentatives and the Senate detailing how the funds will  
22 be used, by sector, to include the number of miles to be  
23 built: *Provided further*, That none of the funds made avail-  
24 able pursuant to this section shall be available for obliga-

1 tion until the Secretary submits the report detailed in the  
2 preceding proviso.

3       SEC. 206. (a) Not later than 60 days after the date  
4 of the enactment of this Act and monthly thereafter, the  
5 Director of U.S. Immigration and Customs Enforcement  
6 (in this section, referred to as the “Director”) shall pro-  
7 vide to the Committees on Appropriations of the House  
8 of Representatives and the Senate data detailing the num-  
9 ber of weekly removal flights conducted by U.S. Immigra-  
10 tion and Customs Enforcement, the cost per flight, the  
11 number of individuals by nationality on each flight, the  
12 average length of time by nationality between when the  
13 individual was removed and when the individual’s final  
14 order of removal was issued, and the number of empty  
15 seats on each flight.

16       (b) The Director shall also provide to the Committees  
17 on Appropriations of the House of Representatives and the  
18 Senate data detailing the number of voluntary repatri-  
19 ations coordinated by U.S. Immigration and Customs En-  
20 forcement, the costs associated with each repatriation, the  
21 number of individuals by nationality, the average length  
22 of time by nationality between when the individual was  
23 removed and when the individual’s final order of removal  
24 was issued, and the number of individuals that have opted  
25 into this program still awaiting repatriation.

1           SEC. 207. (a) Not later than 30 days after the date  
2 of enactment of this Act and weekly thereafter, the Direc-  
3 tor of U.S. Immigration and Customs Enforcement (in  
4 this section referred to as the “Director”) shall provide  
5 to the Committees on Appropriations of the House of Rep-  
6 resentatives and the Senate a plan to increase custodial  
7 detention capacity using the funds provided for such pur-  
8 pose in this title of this Act, until such funds are ex-  
9 pended.

10           (b) The plan required by subsection (a) shall also in-  
11 clude data on all detention capacity to which U.S. Immi-  
12 gration and Customs Enforcement has access but cannot  
13 use, the reason that the capacity cannot be used, and a  
14 course of action for mitigating utilization issues.

15           (c) The Director shall provide notice to the Commit-  
16 tees on Appropriations of the House of Representatives  
17 and the Senate in the plan required by subsection (a) of  
18 any planned facility acquisitions, cost data, utilization  
19 rates, increase of average daily population, and notice of  
20 any termination or reduction of a contract for detention  
21 space, whether such actions are funded by this Act or any  
22 other Act for this or prior fiscal years.

23           (d) The Director shall notify the Committees on Ap-  
24 propriations of the House of Representatives and the Sen-  
25 ate not less than 30 days prior to the planned date of

1 a contract termination or implementation of a reduction  
2 in detention capacity.

3 SEC. 208. None of the funds provided in this title  
4 of this Act for “U.S. Immigration and Customs Enforce-  
5 ment—Operations Support” may be used for community-  
6 based residential facilities.

7 SEC. 209. (a) Prior to the Secretary of Homeland Se-  
8 curity (in this section referred to as the “Secretary”) re-  
9 questing assistance from the Department of Defense for  
10 border security operations, the Secretary shall ensure that  
11 an alternatives analysis and cost-benefit analysis is con-  
12 ducted that includes data on the cost effectiveness of ob-  
13 taining such assistance from the Department of Defense  
14 in lieu of other options.

15 (b) The Secretary shall submit to the Committees on  
16 Appropriations of the House of Representatives and the  
17 Senate, a report detailing the types of support sought by  
18 the Secretary in any request for assistance from the De-  
19 partment of Defense for border security operations and  
20 the operational impact of such request on Department of  
21 Homeland Security operations within 30 days of the date  
22 of enactment of this Act and quarterly thereafter.

23 (c) The Secretary shall include with the data re-  
24 quested in subsection (b) the results of the alternatives

1 analysis and cost-benefit analysis required under sub-  
2 section (a).

3       SEC. 210. Eligibility for funding made available by  
4 this title of this Act for transfer from “U.S. Customs and  
5 Border Protection—Operations and Support” to “Federal  
6 Emergency Management Agency—Federal Assistance”  
7 for the Shelter and Services Program shall not be limited  
8 to entities that previously received or applied for funding  
9 for the Shelter and Services Program or the Emergency  
10 Food and Shelter-Humanitarian program.

11       SEC. 211. Of the total amount provided under the  
12 heading “U.S. Customs and Border Protection—Oper-  
13 ations and Support” in this title of this Act for transfer  
14 to “Federal Emergency Management Agency—Federal  
15 Assistance” for the Shelter and Services Program—

16           (1) not more than \$500,000,000 shall be avail-  
17 able for transfer immediately upon enactment of this  
18 Act;

19           (2) an additional \$188,000,000 shall be avail-  
20 able for transfer upon submission of a written cer-  
21 tification by the Secretary of Homeland Security, to  
22 the Committees on Appropriations of the House of  
23 Representatives and the Senate, that U.S. Immigra-  
24 tion and Customs Enforcement has—

1 (A) the ability to detain 46,500 individuals  
2 and has increased the total number of Enforce-  
3 ment and Removal Operations deportation offi-  
4 cers by 200 above the current on board levels  
5 as of the date of enactment of this Act;

6 (B) increased the total number of U.S.  
7 Customs and Border Protection officers by 200  
8 above the current on board levels as of the date  
9 of enactment of this Act; and

10 (C) increased the total number of U.S.  
11 Citizenship and Immigration Services asylum  
12 officers by 800 above the current on board lev-  
13 els as of the date of enactment of this Act; and

14 (3) an additional \$62,000,000 shall be available  
15 for transfer upon submission of a written certifi-  
16 cation by the Secretary of Homeland Security, to the  
17 Committees on Appropriations of the House of Rep-  
18 resentatives and the Senate, that U.S. Immigration  
19 and Customs Enforcement has—

20 (A) conducted a total of 1,500 removal  
21 flights since the date of enactment of this Act;  
22 and

23 (B) ensured that at least 75 percent of  
24 Border Patrol agents assigned to duty along the  
25 southwest land border have been trained on the

1           procedures included in sections 235B and 244B  
2           of the Immigration and Nationality Act.



1 TITLE III  
2 DEPARTMENT OF HEALTH AND HUMAN  
3 SERVICES  
4 ADMINISTRATION FOR CHILDREN AND FAMILIES  
5 REFUGEE AND ENTRANT ASSISTANCE

6 For an additional amount for “Refugee and Entrant  
7 Assistance”, \$350,000,000, to remain available until ex-  
8 pended, for carrying out section 235(c)(5)(B) of the Wil-  
9 liam Wilberforce Trafficking Victims Protection Reauthor-  
10 ization Act of 2008 (8 U.S.C. 1232(c)(5)(B)): *Provided*,  
11 That for the purposes of carrying out such section the Sec-  
12 retary of Health and Human Services may use amounts  
13 made available under this heading in this Act to award  
14 grants to, or enter into contracts with, public, private, or  
15 nonprofit organizations, including States: *Provided fur-*  
16 *ther*, That such amount is designated by the Congress as  
17 being for an emergency requirement pursuant to section  
18 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
19 Deficit Control Act of 1985.

1 TITLE IV  
2 DEPARTMENT OF STATE AND RELATED  
3 AGENCY  
4 BILATERAL ECONOMIC ASSISTANCE  
5 FUNDS APPROPRIATED TO THE PRESIDENT  
6 INTERNATIONAL DISASTER ASSISTANCE

7 For an additional amount for “International Disaster  
8 Assistance”, \$850,000,000, to remain available until ex-  
9 pended, to address humanitarian needs in the Western  
10 Hemisphere: *Provided*, That such amount is designated by  
11 the Congress as being for an emergency requirement pur-  
12 suant to section 251(b)(2)(A)(i) of the Balanced Budget  
13 and Emergency Deficit Control Act of 1985.

14 ECONOMIC SUPPORT FUND

15 For an additional amount for “Economic Support  
16 Fund”, \$415,000,000, to remain available until Sep-  
17 tember 30, 2026: *Provided*, That of the total amount made  
18 available under this heading in this Act, \$230,000,000  
19 shall be made available to increase foreign country capac-  
20 ity to accept and integrate returned and removed individ-  
21 uals, which shall be administered in consultation with the  
22 Secretary of Homeland Security, including to address  
23 partner government requests that enable the achievement  
24 of such objectives, as appropriate: *Provided further*, That  
25 of the total amount made available under this heading in

1 this Act, \$185,000,000 shall be made available to reduce  
2 irregular migration within the Western Hemisphere: *Pro-*  
3 *vided further*, That prior to the obligation of funds made  
4 available pursuant to the preceding proviso that are made  
5 available to support the repatriation operations of a for-  
6 eign government, the Secretary of State shall submit to  
7 the appropriate congressional committees a monitoring  
8 and oversight plan for the use of such funds, and such  
9 funds shall be subject to prior consultation with such com-  
10 mittees and the regular notification procedures of the  
11 Committees on Appropriations: *Provided further*, That the  
12 Secretary of State shall submit to such committees the  
13 text of any agreements or awards related to such oper-  
14 ations, which may include documents submitted in classi-  
15 fied form, as appropriate, including any agreement with  
16 a foreign government, nongovernment entity, or inter-  
17 national organization, as applicable, not later than 5 days  
18 after the effective date of such document: *Provided further*,  
19 That funds appropriated under this heading in this Act  
20 may be made available as contributions: *Provided further*,  
21 That funds appropriated under this heading in this Act  
22 shall not be used to support the refoulement of migrants  
23 or refugees: *Provided further*, That such amount is des-  
24 ignated by the Congress as being for an emergency re-

1 quirement pursuant to section 251(b)(2)(A)(i) of the Bal-  
2 anced Budget and Emergency Deficit Control Act of 1985.

3 INTERNATIONAL SECURITY ASSISTANCE

4 DEPARTMENT OF STATE

5 INTERNATIONAL NARCOTICS CONTROL AND LAW

6 ENFORCEMENT

7 For an additional amount for “International Nar-  
8 cotics Control and Law Enforcement”, \$25,000,000, to re-  
9 main available until September 30, 2025, to counter the  
10 flow of fentanyl, fentanyl precursors, and other synthetic  
11 drugs into the United States, following consultation with  
12 the Committees on Appropriations: *Provided*, That such  
13 amount is designated by the Congress as being for an  
14 emergency requirement pursuant to section  
15 251(b)(2)(A)(i) of the Balanced Budget and Emergency  
16 Deficit Control Act of 1985..

## 1 TITLE V

## 2 GENERAL PROVISIONS—THIS ACT

3 SEC. 501. Each amount appropriated or made avail-  
4 able by this Act is in addition to amounts otherwise appro-  
5 priated for the fiscal year involved.

6 SEC. 502. No part of any appropriation contained in  
7 this Act shall remain available for obligation beyond the  
8 current fiscal year unless expressly so provided herein.

9 SEC. 503. Unless otherwise provided for by this Act,  
10 the additional amounts appropriated by this Act to appro-  
11 priations accounts shall be available under the authorities  
12 and conditions applicable to such appropriations accounts  
13 for fiscal year 2024.

14 SEC. 504. Each amount designated in this Act by the  
15 Congress as being for an emergency requirement pursuant  
16 to section 251(b)(2)(A)(i) of the Balanced Budget and  
17 Emergency Deficit Control Act of 1985 shall be available  
18 (or repurposed or rescinded, if applicable) only if the  
19 President subsequently so designates all such amounts  
20 and transmits such designations to the Congress.

21 SEC. 505. Any amount appropriated by this Act, des-  
22 ignated by the Congress as an emergency requirement  
23 pursuant to section 251(b)(2)(A)(i) of the Balanced Budg-  
24 et and Emergency Deficit Control Act of 1985, and subse-  
25 quently so designated by the President, and transferred

1 pursuant to transfer authorities provided by this Act shall  
2 retain such designation.

3       This division may be cited as the “Border Security  
4 and Combatting Fentanyl Supplemental Appropriations  
5 Act, 2024”.

# 1           **DIVISION B—BORDER ACT**

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

3           (a) **SHORT TITLE.**—This division may be cited as the  
4 “Border Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—CAPACITY BUILDING

#### Subtitle A—Hiring, Training, and Systems Modernization

##### CHAPTER 1—HIRING AUTHORITIES

Sec. 101. USCIS direct hire authority.

Sec. 102. ICE direct hire authority.

Sec. 103. Reemployment of civilian retirees to meet exceptional employment needs.

Sec. 104. Establishment of special pay rate for asylum officers.

##### CHAPTER 2—HIRING WAIVERS

Sec. 111. Hiring flexibility.

Sec. 112. Supplemental Commissioner authority and definitions.

##### CHAPTER 3—ALTERNATIVES TO DETENTION IMPROVEMENTS AND TRAINING FOR U.S. BORDER PATROL

Sec. 121. Alternatives to detention improvements.

Sec. 122. Training for U.S. Border Patrol.

##### CHAPTER 4—MODERNIZING NOTICES TO APPEAR

Sec. 131. Electronic notices to appear.

Sec. 132. Authority to prepare and issue notices to appear.

#### Subtitle B—Asylum Processing at the Border

Sec. 141. Provisional noncustodial removal proceedings.

Sec. 142. Protection merits removal proceedings.

Sec. 143. Voluntary departure after noncustodial processing; withdrawal of application for admission.

Sec. 144. Voluntary repatriation.

Sec. 145. Immigration Examinations Fee Account.

Sec. 146. Border reforms.

Sec. 147. Protection Appellate Board.

### TITLE II—ASYLUM PROCESSING ENHANCEMENTS

Sec. 201. Combined screenings.

## 32

- Sec. 202. Credible fear standard and asylum bars at screening interview.
- Sec. 203. Internal relocation.
- Sec. 204. Asylum officer clarification.

## TITLE III—SECURING AMERICA

## Subtitle A—Border Emergency Authority

- Sec. 301. Border emergency authority.

## Subtitle B—Fulfilling Promises to Afghan Allies

- Sec. 311. Definitions.
- Sec. 312. Support for Afghan allies outside the United States.
- Sec. 313. Conditional permanent resident status for eligible individuals.
- Sec. 314. Refugee processes for certain at-risk Afghan allies.
- Sec. 315. Improving efficiency and oversight of refugee and special immigrant processing.
- Sec. 316. Support for certain vulnerable Afghans relating to employment by or on behalf of the United States.
- Sec. 317. Support for allies seeking resettlement in the United States.
- Sec. 318. Reporting.

## TITLE IV—PROMOTING LEGAL IMMIGRATION

- Sec. 401. Employment authorization for fiancés, fiancées, spouses, and children of United States citizens and specialty workers.
- Sec. 402. Additional visas.
- Sec. 403. Children of long-term visa holders.
- Sec. 404. Military naturalization modernization.
- Sec. 405. Temporary family visits.

## TITLE V—SELF-SUFFICIENCY AND DUE PROCESS

## Subtitle A—Work Authorizations

- Sec. 501. Work authorization.
- Sec. 502. Employment eligibility.

## Subtitle B—Protecting Due Process

- Sec. 511. Access to counsel.
- Sec. 512. Counsel for certain unaccompanied alien children.
- Sec. 513. Counsel for certain incompetent individuals.
- Sec. 514. Conforming amendment.

## TITLE VI—ACCOUNTABILITY AND METRICS

- Sec. 601. Employment authorization compliance.
- Sec. 602. Legal access in custodial settings.
- Sec. 603. Credible fear and protection determinations.
- Sec. 604. Publication of operational statistics by U.S. Customs and Border Protection.
- Sec. 605. Utilization of parole authorities.
- Sec. 606. Accountability in provisional removal proceedings.
- Sec. 607. Accountability in voluntary repatriation, withdrawal, and departure.



Sec. 608. GAO analysis of immigration judge and asylum officer decision-making regarding asylum, withholding of removal, and protection under the Convention Against Torture.

Sec. 609. Report on counsel for unaccompanied alien children.

Sec. 610. Recalcitrant countries.

#### TITLE VII—OTHER MATTERS

Sec. 701. Severability.

#### TITLE VIII—BUDGETARY EFFECTS

Sec. 801. Budgetary effects.

### 1 **SEC. 2. DEFINITIONS.**

2 In this division:

3 (1) APPROPRIATE COMMITTEES OF CON-  
4 GRESS.—Except as otherwise explicitly provided, the  
5 term “appropriate committees of Congress”  
6 means—

7 (A) the Committee on Appropriations of  
8 the Senate;

9 (B) the Committee on the Judiciary of the  
10 Senate;

11 (C) the Committee on Homeland Security  
12 and Governmental Affairs of the Senate;

13 (D) the Committee on Appropriations of  
14 the House of Representatives;

15 (E) the Committee on the Judiciary of the  
16 House of Representatives; and

17 (F) the Committee on Homeland Security  
18 of the House of Representatives.

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

1     **TITLE I—CAPACITY BUILDING**  
2     **Subtitle A—Hiring, Training, and**  
3     **Systems Modernization**

4     **CHAPTER 1—HIRING AUTHORITIES**

5     **SEC. 101. USCIS DIRECT HIRE AUTHORITY.**

6         (a) IN GENERAL.—The Secretary may appoint, with-  
7 out regard to the provisions of sections 3309 through  
8 3319 of title 5, United States Code, candidates needed for  
9 positions within the Refugee, Asylum and International  
10 Operations Directorate, the Field Operations Directorate,  
11 and the Service Center Operations Directorate of U.S.  
12 Citizenship and Immigration Services for which—

13             (1) public notice has been given;

14             (2) the Secretary has determined that a critical  
15 hiring need exists; and

16             (3) the Secretary has consulted with the Direc-  
17 tor of the Office of Personnel Management regard-  
18 ing—

19                 (A) the positions for which the Secretary  
20 plans to recruit;

21                 (B) the quantity of candidates Secretary is  
22 seeking; and

23                 (C) the assessment and selection policies  
24 the Secretary plans to utilize.

1 (b) DEFINITION OF CRITICAL HIRING NEED.—In  
2 this section, the term “critical hiring need” means per-  
3 sonnel necessary for the implementation of this division  
4 and associated work.

5 (c) REPORTING.—Not later than 1 year after the date  
6 of enactment of this Act, and annually thereafter for the  
7 following 4 years, the Secretary, in consultation with the  
8 Director of the Office of Personnel Management, shall  
9 submit to Congress a report that includes—

10 (1) demographic data, including veteran status,  
11 regarding individuals hired pursuant to the authority  
12 under subsection (a);

13 (2) salary information of individuals hired pur-  
14 suant to such authority; and

15 (3) how the Department of Homeland Security  
16 exercised such authority consistently with merit sys-  
17 tem principles.

18 (d) SUNSET.—The authority to make an appointment  
19 under this section shall terminate on the date that is 5  
20 years after the date of the enactment of this Act.

21 **SEC. 102. ICE DIRECT HIRE AUTHORITY.**

22 (a) IN GENERAL.—The Secretary may appoint, with-  
23 out regard to the provisions of sections 3309 through  
24 3319 of title 5, United States Code, candidates needed for  
25 positions within Enforcement and Removal Operations of

1 U.S. Immigration and Customs Enforcement as a deporta-  
2 tion officer or with duties exclusively relating to the En-  
3 forcement and Removal, Custody Operations, Alternatives  
4 to Detention, or Transportation and Removal program for  
5 which—

6 (1) public notice has been given;

7 (2) the Secretary has determined that a critical  
8 hiring need exists; and

9 (3) the Secretary has consulted with the Direc-  
10 tor of the Office of Personnel Management regard-  
11 ing—

12 (A) the positions for which the Secretary  
13 plans to recruit;

14 (B) the quantity of candidates the Sec-  
15 retary is seeking; and

16 (C) the assessment and selection policies  
17 the Secretary plans to utilize.

18 (b) DEFINITION OF CRITICAL HIRING NEED.—In  
19 this section, the term “critical hiring need” means per-  
20 sonnel necessary for the implementation of this division  
21 and associated work.

22 (c) REPORTING.—Not later than 1 year after the date  
23 of the enactment of this Act, and annually thereafter for  
24 the following 4 years, the Secretary, in consultation with

1 the Director of the Office of Personnel Management, shall  
2 submit to Congress a report that includes—

3 (1) demographic data, including veteran status,  
4 regarding individuals hired pursuant to the authority  
5 under subsection (a);

6 (2) salary information of individuals hired pur-  
7 suant to such authority; and

8 (3) how the Department of Homeland Security  
9 exercised such authority consistently with merit sys-  
10 tem principles.

11 (d) SUNSET.—The authority to make an appointment  
12 under this section shall terminate on the date that is 5  
13 years after the date of the enactment of this Act.

14 **SEC. 103. REEMPLOYMENT OF CIVILIAN RETIREES TO**  
15 **MEET EXCEPTIONAL EMPLOYMENT NEEDS.**

16 (a) AUTHORITY.—The Secretary, after consultation  
17 with the Director of the Office of Personnel Management,  
18 may waive, with respect to any position in U.S. Immigra-  
19 tion and Customs Enforcement, U.S. Customs and Border  
20 Protection, or U.S. Citizenship and Immigration Services,  
21 the application of section 8344 or 8468 of title 5, United  
22 States Code, on a case-by-case basis, for employment of  
23 an annuitant in a position necessary to implement this di-  
24 vision and associated work, for which there is exceptional

1 difficulty in recruiting or retaining a qualified employee,  
2 or when a temporary emergency hiring need exists.

3 (b) PROCEDURES.—The Secretary, after consultation  
4 with the Director of the Office of Personnel Management,  
5 shall prescribe procedures for the exercise of the authority  
6 under subsection (a), including procedures for a delegation  
7 of authority.

8 (c) ANNUITANTS NOT TREATED AS EMPLOYEES FOR  
9 PURPOSES OF RETIREMENT BENEFITS.—An employee for  
10 whom a waiver under this section is in effect shall not  
11 be considered an employee for purposes of subchapter III  
12 of chapter 83 or chapter 84 of title 5, United States Code.

13 **SEC. 104. ESTABLISHMENT OF SPECIAL PAY RATE FOR ASY-**  
14 **LUM OFFICERS.**

15 (a) IN GENERAL.—Subchapter III of chapter 53 of  
16 title 5, United States Code, is amended by inserting after  
17 section 5332 the following:

18 **“§ 5332a. Special base rates of pay for asylum officers**

19 “(a) DEFINITIONS.—In this section—

20 “(1) the term ‘asylum officer’ has the meaning  
21 given such term in section 235(b)(1) of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1225(b)(1));

23 “(2) the term ‘General Schedule base rate’  
24 means an annual rate of basic pay established under  
25 section 5332 before any additions, such as a locality-

1 based comparability payment under section 5304 or  
2 5304a or a special rate supplement under section  
3 5305; and

4 “(3) the term ‘special base rate’ means an an-  
5 nual rate of basic pay payable to an asylum officer,  
6 before any additions or reductions, that replaces the  
7 General Schedule base rate otherwise applicable to  
8 the asylum officer and that is administered in the  
9 same manner as a General Schedule base rate.

10 “(b) SPECIAL BASE RATES OF PAY.—

11 “(1) ENTITLEMENT TO SPECIAL RATE.—Not-  
12 withstanding section 5332, an asylum officer is enti-  
13 tled to a special base rate at grades 1 through 15,  
14 which shall—

15 “(A) replace the otherwise applicable Gen-  
16 eral Schedule base rate for the asylum officer;

17 “(B) be basic pay for all purposes, includ-  
18 ing the purpose of computing a locality-based  
19 comparability payment under section 5304 or  
20 5304a; and

21 “(C) be computed as described in para-  
22 graph (2) and adjusted at the time of adjust-  
23 ments in the General Schedule.

24 “(2) COMPUTATION.—The special base rate for  
25 an asylum officer shall be derived by increasing the

1 otherwise applicable General Schedule base rate for  
2 the asylum officer by 15 percent for the grade of the  
3 asylum officer and rounding the result to the nearest  
4 whole dollar.”.

5 (b) CLERICAL AMENDMENT.—The table of sections  
6 for subchapter III of chapter 53 of title 5, United States  
7 Code, is amended by inserting after the item relating to  
8 section 5332 the following:

“5332a. Special base rates of pay for asylum officers.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect on the first day of the first  
11 applicable pay period beginning 30 days after the date of  
12 the enactment of this Act.

## 13 **CHAPTER 2—HIRING WAIVERS**

### 14 **SEC. 111. HIRING FLEXIBILITY.**

15 (a) IN GENERAL.—Section 3 of the Anti-Border Cor-  
16 ruption Act of 2010 (6 U.S.C. 221) is amended by striking  
17 subsection (b) and inserting the following new subsections:

18 “(b) WAIVER AUTHORITY.—The Commissioner of  
19 U.S. Customs and Border Protection may waive the appli-  
20 cation of subsection (a)(1) in the following circumstances:

21 “(1) In the case of a current, full-time law en-  
22 forcement officer employed by a State or local law  
23 enforcement agency, if such officer—



1           “(A) has served as a law enforcement offi-  
2 cer for not fewer than three years with no  
3 break in service;

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

9           “(C) is not currently under investigation,  
10 does not have disciplinary, misconduct, or de-  
11 rogatory records, has not been found to have  
12 engaged in a criminal offense or misconduct,  
13 has not resigned from a law enforcement officer  
14 position under investigation or in lieu of termi-  
15 nation, and has not been dismissed from a law  
16 enforcement officer position; and

17           “(D) has, within the past ten years, suc-  
18 cessfully completed a polygraph examination as  
19 a condition of employment with such officer’s  
20 current law enforcement agency.

21           “(2) In the case of a current, full-time Federal  
22 law enforcement officer, if such officer—

23           “(A) has served as a law enforcement offi-  
24 cer for not fewer than three years with no  
25 break in service;

1           “(B) has authority 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           does not have disciplinary, misconduct, or de-  
7           rogatory records, has not been found to have  
8           engaged in a criminal offense or misconduct,  
9           has not resigned from a law enforcement officer  
10          position under investigation or in lieu of termi-  
11          nation, and has not been dismissed from a law  
12          enforcement officer position; and

13          “(D) holds a current background investiga-  
14          tion, in accordance with current standards re-  
15          quired for access to Top Secret or Top Secret/  
16          Sensitive Compartmented Information.

17          “(3) In the case of an individual who is a mem-  
18          ber of the Armed Forces (or a reserve component  
19          thereof) or a veteran, if such individual—

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

22                 “(B) holds, or has held within the past five  
23                 years, Top Secret or Top Secret/Sensitive Com-  
24                 partmented Information clearance;

1           “(C) holds, or has undergone within the  
2           past five years, a current background investiga-  
3           tion in accordance with current standards re-  
4           quired for access to Top Secret or Top Secret/  
5           Sensitive Compartmented Information;

6           “(D) received, or is eligible to receive, an  
7           honorable discharge from service in the Armed  
8           Forces, has not engaged in a criminal offense,  
9           has not committed a military offense under the  
10          Uniform Code of Military Justice, and does not  
11          have disciplinary, misconduct, or derogatory  
12          records; and

13          “(E) was not granted any waivers to ob-  
14          tain the clearance referred to subparagraph  
15          (B).

16          “(c) TERMINATION OF WAIVER AUTHORITY.—The  
17          authority to issue a waiver under subsection (b) shall ter-  
18          minate on September 30, 2027.”.

19          (b) REINSTATEMENT.—Upon termination of the  
20          waiver authority under subsection (b) of section 3 of the  
21          Anti-Border Corruption Act of 2010 (6 U.S.C. 221), as  
22          amended by subsection (a), the text of section 3(b) of the  
23          Anti-Border Corruption Act of 2010 (6 U.S.C. 221(b))  
24          shall be reinstated as it appeared on the day before the  
25          date of the enactment of this Act.

1 **SEC. 112. SUPPLEMENTAL COMMISSIONER AUTHORITY AND**  
2 **DEFINITIONS.**

3 (a) SUPPLEMENTAL COMMISSIONER AUTHORITY.—  
4 Section 4 of the Anti-Border Corruption Act of 2010  
5 (Public Law 111–376) is amended to read as follows:

6 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

7 “(a) NON-EXEMPTION.—An individual who receives a  
8 waiver under subsection (b) of section 3 is not exempt  
9 from other hiring requirements relating to suitability for  
10 employment and eligibility to hold a national security des-  
11 igned position, as determined by the Commissioner of  
12 U.S. Customs and Border Protection.

13 “(b) BACKGROUND INVESTIGATIONS.—Any indi-  
14 vidual who receives a waiver under subsection (b) of sec-  
15 tion 3 who holds a background investigation in accordance  
16 with current standards required for access to Top Secret  
17 or Top Secret/Sensitive Compartmented Information shall  
18 be subject to an appropriate background investigation.

19 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-  
20 TION.—The Commissioner of U.S. Customs and Border  
21 Protection is authorized to administer a polygraph exam-  
22 ination to an applicant or employee who is eligible for or  
23 receives a waiver under subsection (b) of section 3 if infor-  
24 mation is discovered prior to the completion of a back-  
25 ground investigation that results in a determination that  
26 a polygraph examination is necessary to make a final de-

1 termination regarding suitability for employment or con-  
2 tinued employment, as the case may be.”.

3 (b) REPORT.—The Anti-Border Corruption Act of  
4 2010 (Public Law 111–376; 124 Stat. 4104) is amended  
5 by adding at the end the following new section:

6 **“SEC. 5. REPORTING REQUIREMENTS.**

7 “(a) ANNUAL REPORT.—Not later than one year  
8 after the date of the enactment of this section, and annu-  
9 ally thereafter for three years, the Commissioner of U.S.  
10 Customs and Border Protection shall submit a report to  
11 Congress that includes, with respect to the reporting pe-  
12 riod—

13 “(1) the number of waivers granted and denied  
14 under section 3(b);

15 “(2) the reasons for any denials of such waiver;

16 “(3) the percentage of applicants who were  
17 hired after receiving a waiver;

18 “(4) the number of instances that a polygraph  
19 was administered to an applicant who initially re-  
20 ceived a waiver and the results of such polygraph;

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

1           “(6) additional authorities needed by U.S. Cus-  
2           toms and Border Protection to better utilize the  
3           polygraph waiver program for its intended goals; and

4           “(7) any disciplinary actions taken against law  
5           enforcement officers hired under the waiver author-  
6           ity authorized under section 3(b).

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

9           “(1) an analysis of other methods of employ-  
10          ment suitability tests that detect deception and could  
11          be used in conjunction with traditional background  
12          investigations to evaluate potential employees for  
13          suitability; and

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

19          (c) **GAO REPORT.**—The Anti-Border Corruption Act  
20          of 2010 (Public Law 111–376; 124 Stat. 4104), as  
21          amended by subsection (b) of this section, is further  
22          amended by adding at the end the following new section:

23          **“SEC. 6. GAO REPORT.**

24          “(a) **IN GENERAL.**—Not later than five years after  
25          the date of the enactment of this section, and every five

1 years thereafter, the Comptroller General of the United  
2 States shall—

3 “(1) conduct a review of the disciplinary, mis-  
4 conduct, or derogatory records of all individuals  
5 hired using the waiver authority under subsection  
6 (b) of section 3—

7 “(A) to determine the rates of disciplinary  
8 actions taken against individuals hired using  
9 such waiver authority, as compared to individ-  
10 uals hired after passing the polygraph as re-  
11 quired under subsection (a) of that section; and

12 “(B) to address any other issue relating to  
13 discipline by U.S. Customs and Border Protec-  
14 tion; and

15 “(2) submit to the Committee on Homeland Se-  
16 curity and Governmental Affairs of the Senate and  
17 the Committee on Homeland Security of the House  
18 of Representatives a report that appropriately pro-  
19 tects sensitive information and describes the results  
20 of the review conducted under paragraph (1).

21 “(b) SUNSET.—The requirement under this section  
22 shall terminate on the date on which the third report re-  
23 quired by subsection (a) is submitted.”.

24 (d) DEFINITIONS.—The Anti-Border Corruption Act  
25 of 2010 (Public Law 111–376; 124 Stat. 4104), as

1 amended by subsection (c) of this section, is further  
2 amended by adding at the end the following new section:

3 **“SEC. 7. DEFINITIONS.**

4 “In this Act:

5 “(1) CRIMINAL OFFENSE.—The term ‘criminal  
6 offense’ means—

7 “(A) any felony punishable by a term of  
8 imprisonment of more than one year; and

9 “(B) any other crime for which an essen-  
10 tial element involves fraud, deceit, or misrepre-  
11 sentation to obtain an advantage or to dis-  
12 advantage another.

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

17 “(3) MILITARY OFFENSE.—The term ‘military  
18 offense’ means—

19 “(A) an offense for which—

20 “(i) a member of the Armed Forces  
21 may be discharged or separated from serv-  
22 ice in the Armed Forces; or

23 “(ii) a punitive discharge is, or would  
24 be, authorized for the same or a closely re-  
25 lated offense under the Manual for Courts-



1 Martial, as pursuant to Army Regulation  
2 635–200 chapter 14–12; and

3 “(B) an action for which a member of the  
4 Armed Forces received a demotion in military  
5 rank as punishment for a crime or wrongdoing,  
6 imposed by a court martial or other authority.

7 “(4) VETERAN.—The term ‘veteran’ has the  
8 meaning given such term in section 101(2) of title  
9 38, United States Code.”.

10 **CHAPTER 3—ALTERNATIVES TO DETEN-**  
11 **TION IMPROVEMENTS AND TRAINING**  
12 **FOR U.S. BORDER PATROL**

13 **SEC. 121. ALTERNATIVES TO DETENTION IMPROVEMENTS.**

14 (a) CERTIFICATION.—Not later than 90 days after  
15 the date of the enactment of this Act, the Director of U.S.  
16 Immigration and Customs Enforcement shall certify to the  
17 appropriate committees of Congress that—

18 (1) with respect to the alternatives to detention  
19 programs, U.S. Immigration and Customs Enforce-  
20 ment’s processes that condition the release of aliens  
21 under any type of supervision, consistent and stand-  
22 ard policies are in place across all U.S. Immigration  
23 and Customs Enforcement field offices;

1           (2) the U.S. Immigration and Customs En-  
2           forcement's alternatives to detention programs use  
3           escalation and de-escalation techniques; and

4           (3) reports on the use of, and policies with re-  
5           spect to, such escalation and de-escalation tech-  
6           niques are provided to the public appropriately pro-  
7           tecting sensitive information.

8           (b) ANNUAL POLICY REVIEW.—

9           (1) IN GENERAL.—Not less frequently than an-  
10          nually, the Director shall conduct a review of U.S.  
11          Immigration and Customs Enforcement policies with  
12          respect to the alternatives to detention programs so  
13          as to ensure standardization and evidence-based de-  
14          cision making.

15          (2) SUBMISSION OF POLICY REVIEWS.—Not  
16          later than 14 days after the completion of each re-  
17          view required by paragraph (1), the Director shall  
18          submit to the appropriate committees of Congress a  
19          report on the results of the review.

20          (c) INDEPENDENT VERIFICATION AND VALIDA-  
21          TION.—Not less frequently than every 5 years, the Direc-  
22          tor shall ensure that an independent verification and vali-  
23          dation of U.S. Immigration and Customs Enforcement  
24          policies with respect to the alternatives to detention pro-  
25          grams is conducted.

1 **SEC. 122. TRAINING FOR U.S. BORDER PATROL.**

2 (a) **IN GENERAL.**—The Commissioner of U.S. Cus-  
3 toms and Border Protection shall require all U.S. Border  
4 Patrol agents and other employees or contracted employ-  
5 ees designated by the Commissioner to participate in an-  
6 nual continuing training to maintain and update their un-  
7 derstanding of—

8 (1) Department of Homeland Security policies,  
9 procedures, and guidelines;

10 (2) the fundamentals of law (including the  
11 Fourth Amendment to the Constitution of the  
12 United States), ethics, and professional conduct;

13 (3) applicable Federal law and regulations;

14 (4) applicable migration trends that the Com-  
15 missioner determines are relevant;

16 (5) best practices for coordinating with commu-  
17 nity stakeholders;

18 (6) de-escalation training; and

19 (7) any other information the Commissioner de-  
20 termines to be relevant to active duty agents.

21 (b) **TRAINING SUBJECTS.**—Continuing training  
22 under this section shall include training regarding—

23 (1) the non-lethal use of force policies available  
24 to U.S. Border Patrol agents and de-escalation  
25 strategies and methods;

1           (2) identifying, screening, and responding to  
2           vulnerable populations, such as children, persons  
3           with diminished mental capacity, victims of human  
4           trafficking, pregnant mothers, victims of gender-  
5           based violence, victims of torture or abuse, and the  
6           acutely ill;

7           (3) trends in transnational criminal organiza-  
8           tion activities that impact border security and mi-  
9           gration;

10          (4) policies, strategies, and programs—

11                (A) to protect due process, the civil,  
12                human, and privacy rights of individuals, and  
13                the private property rights of land owners;

14                (B) to reduce the number of migrant and  
15                agent deaths; and

16                (C) to improve the safety of agents on pa-  
17                trol;

18          (5) personal resilience;

19          (6) anti-corruption and officer ethics training;

20          (7) current migration trends, including updated  
21          cultural and societal issues of countries that are a  
22          significant source of migrants who are—

23                (A) arriving to seek humanitarian protec-  
24                tion; or

1 (B) encountered at a United States inter-  
2 national boundary while attempting to enter  
3 without inspection;

4 (8) the impact of border security operations on  
5 natural resources and the environment, including  
6 strategies to limit the impact of border security op-  
7 erations on natural resources and the environment;

8 (9) relevant cultural, societal, racial, and reli-  
9 gious training, including cross-cultural communica-  
10 tion skills;

11 (10) training required under the Prison Rape  
12 Elimination Act of 2003 (42 U.S.C. 15601 et seq.);

13 (11) risk management and safety training that  
14 includes agency protocols for ensuring public safety,  
15 personal safety, and the safety of persons in the cus-  
16 tody of the Department of Homeland Security; and

17 (12) any other training that meets the require-  
18 ments to maintain and update the subjects identified  
19 in subsection (a).

20 (c) COURSE REQUIREMENTS.—Courses offered under  
21 this section—

22 (1) shall be administered by U.S. Customs and  
23 Border Protection; and

24 (2) shall be approved in advance by the Com-  
25 missioner of U.S. Customs and Border Protection to

1 ensure that such courses satisfy the requirements for  
2 training under this section.

3 (d) ASSESSMENT.—Not later than 2 years after the  
4 date of the enactment of this Act, the Comptroller General  
5 of the United States shall submit to the Committee on  
6 Homeland Security and Governmental Affairs of the Sen-  
7 ate and the Committee on Homeland Security of the  
8 House of Representatives a report that assesses the train-  
9 ing and education provided pursuant to this section, in-  
10 cluding continuing education.

11 **CHAPTER 4—MODERNIZING NOTICES TO**  
12 **APPEAR**

13 **SEC. 131. ELECTRONIC NOTICES TO APPEAR.**

14 Section 239 of the Immigration and Nationality Act  
15 (8 U.S.C. 1229) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), in the matter pre-  
18 ceding subparagraph (A), by inserting “or, if  
19 elected by the alien in writing, by email or other  
20 electronic means to the extent feasible, if the  
21 alien, or the alien’s counsel of record, volun-  
22 tarily elects such service or otherwise accepts  
23 service electronically” after “mail”; and

24 (B) in paragraph (2)(A), in the matter  
25 preceding clause (i), by inserting “or, if elected

1 by the alien in writing, by email or other elec-  
2 tronic means to the extent feasible, if the alien,  
3 or the alien’s counsel of record, voluntarily  
4 elects such service or otherwise accepts service  
5 electronically” after “mail”; and

6 (2) in subsection (c)—

7 (A) by inserting “the alien, or to the  
8 alien’s counsel of record, at” after “delivery  
9 to”; and

10 (B) by inserting “, or to the email address  
11 or other electronic address at which the alien  
12 elected to receive notice under paragraph (1) or  
13 (2) of subsection (a)” before the period at the  
14 end.

15 **SEC. 132. AUTHORITY TO PREPARE AND ISSUE NOTICES TO**  
16 **APPEAR.**

17 Section 239(a) of the Immigration and Nationality  
18 Act (8 U.S.C. 1229(a)) is amended by adding at the end  
19 the following:

20 “(4) **AUTHORITY FOR CERTAIN PERSONNEL TO**  
21 **SERVE NOTICES TO APPEAR.**—Any mission support  
22 personnel within U.S. Customs and Border Protec-  
23 tion or U.S. Immigration and Customs Enforcement  
24 who are subject to the oversight of an immigration  
25 officer with authority to issue a notice to appear,

1 and who has received the necessary training to issue  
2 such a notice, shall be authorized to prepare a notice  
3 to appear under this section for review and issuance  
4 by the immigration officer.”.

5 **Subtitle B—Asylum Processing at**  
6 **the Border**

7 **SEC. 141. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**  
8 **CEEDINGS.**

9 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
10 gration and Nationality Act (8 U.S.C. 1221 et seq.) is  
11 amended by inserting after section 235A the following:

12 **“SEC. 235B. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**  
13 **CEEDINGS.**

14 “(a) GENERAL RULES.—

15 “(1) CIRCUMSTANCES WARRANTING NONCUSTO-  
16 DIAL PROCEEDINGS.—The Secretary, based upon  
17 operational circumstances, may refer an alien appli-  
18 cant for admission for proceedings described in this  
19 section if the alien—

20 “(A) indicates an intention to apply for a  
21 protection determination; or

22 “(B) expresses a credible fear of persecu-  
23 tion (as defined in section 235(b)(1)(B)(v)) or  
24 torture.



1           “(2) RELEASE FROM CUSTODY.—Aliens re-  
2           ferred for proceedings under this section shall be re-  
3           leased from physical custody and processed in ac-  
4           cordance with the procedures described in this sec-  
5           tion.

6           “(3) ALTERNATIVES TO DETENTION.—An adult  
7           alien, including a head of household, who has been  
8           referred for a proceeding under this section shall be  
9           supervised under the Alternatives to Detention pro-  
10          gram of U.S. Immigration and Customs Enforce-  
11          ment immediately upon release from physical cus-  
12          tody and continuing for the duration of such pro-  
13          ceeding.

14          “(4) FAMILY UNITY.—The Secretary shall en-  
15          sure, to the greatest extent practicable, that the re-  
16          ferral of a family unit for proceedings under this  
17          section includes all members of such family unit who  
18          are traveling together.

19          “(5) EXCEPTIONS.—

20                 “(A) UNACCOMPANIED ALIEN CHIL-  
21                 DREN.—The provisions under this section may  
22                 not be applied to unaccompanied alien children  
23                 (as defined in section 462(g) of the Homeland  
24                 Security Act of 2002 (6 U.S.C. 279(g))).

25                 “(B) APPLICABILITY LIMITATION.—

1                   “(i) IN GENERAL.—The Secretary  
2                   shall only refer for proceedings under this  
3                   section an alien described in clause (ii).

4                   “(ii) ALIEN DESCRIBED.— An alien  
5                   described in this clause is an alien who—

6                                 “(I) has not affirmatively shown,  
7                                 to the satisfaction of an immigration  
8                                 officer, that the alien has been phys-  
9                                 ically present in the United States for  
10                                more than the 14-day period imme-  
11                               diately prior to the date on which the  
12                               alien was encountered by U.S. Cus-  
13                               toms and Border Protection; and

14                               “(II) was encountered within 100  
15                               air miles of the international land bor-  
16                               ders of the United States.

17                   “(6) TIMING.—The provisional noncustodial re-  
18                   moval proceedings described in this section shall  
19                   conclude, to the maximum extent practicable, not  
20                   later than 90 days after the date the alien is in-  
21                   spected and determined inadmissible.

22                   “(b) PROCEDURES FOR PROVISIONAL NONCUSTO-  
23                   DIAL REMOVAL PROCEEDINGS.—

24                               “(1) COMMENCEMENT.—

1           “(A) IN GENERAL.—Provisional noncusto-  
2           dial removal proceedings shall commence under  
3           this section with respect to an alien immediately  
4           after the Secretary properly serves a notice of  
5           removal proceedings on the alien.

6           “(B) 90-DAY TIMEFRAME.—The 90-day  
7           period under subsection (a)(6) with respect to  
8           an alien shall commence upon an inspection and  
9           inadmissibility determination of the alien.

10          “(2) SERVICE AND NOTICE OF INTERVIEW RE-  
11          QUIREMENTS.—In provisional noncustodial removal  
12          proceedings conducted under this section, the Sec-  
13          retary shall—

14                 “(A) serve notice to the alien or, if per-  
15                 sonal service is not practicable, to the alien’s  
16                 counsel of record;

17                 “(B) ensure that such notice, to the max-  
18                 imum extent practicable, is in the alien’s native  
19                 language or in a language the alien under-  
20                 stands; and

21                 “(C) include in such notice—

22                         “(i) the nature of the proceedings  
23                         against the alien;

24                         “(ii) the legal authority under which  
25                         such proceedings will be conducted; and

1                   “(iii) the charges against the alien  
2                   and the statutory provisions the alien is al-  
3                   leged to have violated;

4                   “(D) inform the alien of his or her obliga-  
5                   tion—

6                   “(i) to immediately provide (or have  
7                   provided) to the Secretary, in writing, the  
8                   mailing address, contact information, email  
9                   address or other electronic address, and  
10                  telephone number (if any), at which the  
11                  alien may be contacted respecting the pro-  
12                  ceeding under this section; and

13                  “(ii) to provide to the Secretary, in  
14                  writing, any change of the alien’s mailing  
15                  address or telephone number shortly after  
16                  any such change;

17                  “(E) include in such notice—

18                  “(i) the time and place at which the  
19                  proceeding under this section will be held,  
20                  which shall be communicated, to the extent  
21                  practicable, before or during the alien’s re-  
22                  lease from physical custody; or

23                  “(ii) immediately after release, the  
24                  time and place of such proceeding, which  
25                  shall be provided not later than 10 days

1 before the scheduled protection determina-  
2 tion interview and shall be considered  
3 proper service of the commencement of  
4 proceedings; and

5 “(F) inform the alien of—

6 “(i) the consequences to which the  
7 alien would be subject pursuant to section  
8 240(b)(5) if the alien fails to appear at  
9 such proceeding, absent exceptional cir-  
10 cumstances;

11 “(ii) the alien’s right to be rep-  
12 resented, at no expense to the Federal  
13 Government, by any counsel or accredited  
14 representative selected by the alien who is  
15 authorized to represent an alien in such a  
16 proceeding; and

17 “(G) the information described in section  
18 235(b)(1)(B)(iv)(II).

19 “(3) PROTECTION DETERMINATION.—

20 “(A) IN GENERAL.—To the maximum ex-  
21 tent practicable, within 90 days after the date  
22 on which an alien is referred for proceedings  
23 under this section, an asylum officer shall con-  
24 duct a protection determination of such alien in

1 person or through a technology appropriate for  
2 protection determinations.

3 “(B) ACCESS TO COUNSEL.—In any pro-  
4 ceeding under this section or section 240D be-  
5 fore U.S. Citizenship and Immigration Services  
6 and in any appeal of the result of such a pro-  
7 ceeding, an alien shall have the privilege of  
8 being represented, at no expense to the Federal  
9 Government, by counsel authorized to represent  
10 an alien in such a proceeding.

11 “(C) PROCEDURES AND EVIDENCE.—The  
12 asylum officer may receive into evidence any  
13 oral or written statement that is material and  
14 relevant to any matter in the protection deter-  
15 mination. The testimony of the alien shall be  
16 under oath or affirmation administered by the  
17 asylum officer.

18 “(D) INTERPRETERS.—Whenever nec-  
19 essary, the asylum officer shall procure the as-  
20 sistance of an interpreter, to the maximum ex-  
21 tent practicable, in the alien’s native language  
22 or in a language the alien understands, during  
23 any protection determination.

24 “(E) LOCATION.—

1 “(i) IN GENERAL.—Any protection de-  
2 termination authorized under this section  
3 shall occur in—

4 “(I) a U.S. Citizenship and Im-  
5 migration Services office;

6 “(II) a facility managed, leased,  
7 or operated by U.S. Citizenship and  
8 Immigration Services;

9 “(III) any other location des-  
10 ignated by the Director of U.S. Citi-  
11 zenship and Immigration Services; or

12 “(IV) any other federally owned  
13 or federally leased building that—

14 “(aa) the Director has au-  
15 thorized or entered into a memo-  
16 randum of agreement to be used  
17 for such purpose; and

18 “(bb) meets the special rules  
19 under clause (ii) and the min-  
20 imum requirements under clause  
21 (iii).

22 “(ii) SPECIAL RULES.—

23 “(I) LOCATION.—A protection  
24 determination may not be conducted  
25 in a facility that is managed, leased,

1 owned, or operated by U.S. Immigra-  
2 tion and Customs Enforcement or  
3 U.S. Customs and Border Protection.

4 “(II) REASONABLE TIME.—The  
5 Secretary shall ensure that a protec-  
6 tion determination is conducted dur-  
7 ing a reasonable time of the day.

8 “(III) GEOGRAPHICAL LIMITA-  
9 TION.—The Secretary shall ensure  
10 that each protection determination for  
11 an alien is scheduled at a facility that  
12 is a reasonable distance from the cur-  
13 rent residence of such alien.

14 “(IV) PROTECTION FOR CHIL-  
15 DREN.—In the case of a family unit,  
16 the Secretary shall ensure that the  
17 best interests of the child or children  
18 are considered when conducting a pro-  
19 tection determination of the child’s  
20 family unit.

21 “(iii) MINIMUM LOCATION REQUIRE-  
22 MENT.—Each facility that the Director au-  
23 thORIZES to be used to conduct protection  
24 determinations shall—



1                   “(I) have adequate security  
2                   measures to protect Federal employ-  
3                   ees, aliens, and beneficiaries for bene-  
4                   fits; and

5                   “(II) ensure the best interests of  
6                   the child or children are prioritized  
7                   pursuant to clause (ii)(IV) if such  
8                   children are present at the protection  
9                   determination.

10                   “(F) WRITTEN RECORD.—The asylum offi-  
11                   cer shall prepare a written record of each pro-  
12                   tection determination, which—

13                   “(i) shall be provided to the alien, or  
14                   to the alien’s counsel of record, upon a de-  
15                   cision; and

16                   “(ii) shall include—

17                   “(I) a summary of the material  
18                   facts stated by the alien;

19                   “(II) any additional facts relied  
20                   upon by the asylum officer;

21                   “(III) the asylum officer’s anal-  
22                   ysis of why, in the light of the facts  
23                   referred to in subclauses (I) and (II),  
24                   the alien has or has not established a

1 positive or negative outcome from the  
2 protection determination; and

3 “(IV) a copy of the asylum offi-  
4 cer’s interview notes.

5 “(G) RESCHEDULING.—

6 “(i) IN GENERAL.—The Secretary  
7 shall promulgate regulations that permit  
8 an alien to reschedule a protection deter-  
9 mination in the event of exceptional cir-  
10 cumstances.

11 “(ii) TOLLING OF TIME LIMITA-  
12 TION.—If an interview is rescheduled at  
13 the request of an alien, the period between  
14 the date on which the protection deter-  
15 mination was originally scheduled and the  
16 date of the rescheduled interview shall not  
17 count toward the 90-day period referred to  
18 in subsection (a)(6).

19 “(H) WITHDRAWAL OF APPLICATION, VOL-  
20 UNTARY DEPARTURE, AND VOLUNTARY REPA-  
21 TRIATION.—

22 “(i) VOLUNTARY DEPARTURE.—The  
23 Secretary may permit an alien to volun-  
24 tarily depart in accordance with section  
25 240E.

1                   “(ii) WITHDRAWAL OF APPLICA-  
2                   TION.—The Secretary may permit an alien,  
3                   at any time before the protection merits  
4                   interview, to withdraw his or her applica-  
5                   tion and depart immediately from the  
6                   United States in accordance with section  
7                   240F.

8                   “(iii) VOLUNTARY REPATRIATION.—  
9                   The Secretary may permit an alien to vol-  
10                  untarily repatriate in accordance with sec-  
11                  tion 240G.

12                  “(I) CONVERSION TO REMOVAL PRO-  
13                  CEEDINGS UNDER SECTION 240.—The asylum  
14                  officer or immigration officer may refer or place  
15                  an alien into removal proceedings under section  
16                  240 by issuing a notice to appear for the pur-  
17                  pose of initiating such proceedings if either  
18                  such officer determines that—

19                         “(i) such proceedings are required in  
20                         order to permit the alien to seek an immi-  
21                         gration benefit for which the alien is le-  
22                         gally entitled to apply; and

23                         “(ii) such application requires such  
24                         alien to be placed in, or referred to pro-

1           ceedings under section 240 that are not  
2           available to such alien under this section.

3           “(J) PROTECTION OF INFORMATION.—

4                 “(i) SENSITIVE OR LAW ENFORCE-  
5           MENT INFORMATION.—Nothing in this sec-  
6           tion may be construed to compel any em-  
7           ployee of the Department of Homeland Se-  
8           curity to disclose any information that is  
9           otherwise protected from disclosure by law.

10                “(ii) PROTECTION OF CERTAIN INFOR-  
11           MATION.—Before providing the record de-  
12           scribed in subparagraph (F) to the alien or  
13           to the alien’s counsel of record, the Direc-  
14           tor shall protect any information that is  
15           prohibited by law from being disclosed.

16           “(c) PROTECTION DETERMINATION.—

17                 “(1) IDENTITY VERIFICATION.—The Secretary  
18           may not conduct the protection determination with  
19           respect to an alien until the identity of the alien has  
20           been checked against all appropriate records and  
21           databases maintained by the Attorney General, the  
22           Secretary of State, or the Secretary.

23                 “(2) IN GENERAL.—

24                 “(A) ELIGIBILITY.—Upon the establishing  
25           the identity of an alien pursuant to paragraph

1 (1), the asylum officer shall conduct a protec-  
2 tion determination in a location selected in ac-  
3 cordance with this section.

4 “(B) OUTCOME.—

5 “(i) POSITIVE PROTECTION DETER-  
6 MINATION OUTCOME.—If the protection de-  
7 termination conducted pursuant to sub-  
8 paragraph (A) results in a positive protec-  
9 tion determination outcome, the alien shall  
10 be referred to protection merits removal  
11 proceedings in accordance with the proce-  
12 dures described in paragraph (4).

13 “(ii) NEGATIVE PROTECTION DETER-  
14 MINATION OUTCOME.—If such protection  
15 determination results in a negative protec-  
16 tion determination outcome, the alien shall  
17 be subject to the process described in sub-  
18 section (d).

19 “(3) RECORD.—

20 “(A) USE OF RECORD.—In each protection  
21 determination, or any review of such determina-  
22 tion, the record of the alien’s protection deter-  
23 mination required under subsection (b)(3)(F)  
24 shall constitute the underlying application for  
25 the alien’s application for asylum, withholding

1 of removal under section 241(b)(3), or protec-  
2 tion under the Convention Against Torture for  
3 purposes of the protection merits interview.

4 “(B) DATE OF FILING.—The date on  
5 which the Secretary issues a notification of a  
6 positive protection determination pursuant to  
7 paragraph (2)(B)(i) shall be considered, for all  
8 purposes, the date of filing and the date of re-  
9 ceipt of the alien’s application for asylum, with-  
10 holding of removal under section 241(b)(3), or  
11 protection under the Convention Against Tor-  
12 ture, as applicable.

13 “(4) REFERRAL FOR PROTECTION MERITS RE-  
14 MOVAL PROCEEDINGS.—

15 “(A) IN GENERAL.—If the alien receives a  
16 positive protection determination—

17 “(i) the alien shall be issued employ-  
18 ment authorization pursuant to section  
19 235C; and

20 “(ii) subject to paragraph (5), the  
21 asylum officer shall refer the alien for pro-  
22 tection merits removal proceedings de-  
23 scribed in section 240D.

1           “(B) NOTIFICATIONS.—As soon as prac-  
2           ticable after a positive protection determination,  
3           the Secretary shall—

4                   “(i) issue a written notification to the  
5                   alien of the outcome of such determination;

6                   “(ii) include all of the information de-  
7                   scribed in subsection (b)(2); and

8                   “(iii) ensure that such notification  
9                   and information concerning the procedures  
10                  under section 240D, shall be made, at a  
11                  minimum, not later than 30 days before  
12                  the date on which the required protection  
13                  merits interview under section 240D oc-  
14                  curs.

15           “(5) AUTHORITY TO GRANT RELIEF OR PRO-  
16           TECTION.—

17                   “(A) IN GENERAL.—If an alien dem-  
18                   onstrates, by clear and convincing evidence,  
19                   that the alien is eligible for asylum, withholding  
20                   of removal under section 241(b)(3), or protec-  
21                   tion under the Convention Against Torture dur-  
22                   ing the protection determination, the asylum of-  
23                   ficer, subject to the procedures under subpara-  
24                   graph (B), may grant an application for such  
25                   relief or protection submitted by such alien

1 without referring the alien to protection merits  
2 removal proceedings under section 240D.

3 “(B) SUPERVISORY REVIEW.—

4 “(i) IN GENERAL.—An application  
5 granted by an asylum officer under sub-  
6 paragraph (A) shall be reviewed by a su-  
7 pervisory asylum officer to determine  
8 whether such grant is warranted.

9 “(ii) LIMITATION.—A decision by an  
10 asylum officer to grant an application  
11 under subparagraph (A) shall not be final,  
12 and the alien shall not be notified of such  
13 decision, unless a supervisory asylum offi-  
14 cer first determines, based on the review  
15 conducted pursuant to clause (i), that such  
16 a grant is warranted.

17 “(iii) EFFECT OF APPROVAL.—If the  
18 supervisor determines that granting an  
19 alien’s application for relief or protection is  
20 warranted—

21 “(I) such application shall be ap-  
22 proved; and

23 “(II) the alien shall receive writ-  
24 ten notification of such decision as  
25 soon as practicable.



1                   “(iv) EFFECT OF NON-APPROVAL.—If  
2                   the supervisor determines that the grant is  
3                   not warranted, the alien shall be referred  
4                   for protection merits removal proceedings  
5                   under section 240D.

6                   “(C) SPECIAL RULES.—Notwithstanding  
7                   any other provision of law—

8                   “(i) if an alien’s application for asy-  
9                   lum is approved pursuant to subparagraph  
10                  (B)(iii), the asylum officer may not issue  
11                  an order of removal; and

12                  “(ii) if an alien’s application for with-  
13                  holding of removal under section 241(b)(3)  
14                  or for withholding or deferral of removal  
15                  under the Convention Against Torture is  
16                  approved pursuant to subparagraph  
17                  (B)(iii), the asylum officer shall issue a  
18                  corresponding order of removal.

19                  “(D) BIENNIAL REPORT.—The Director  
20                  shall submit a biennial report to the relevant  
21                  committees of Congress that includes, for the  
22                  relevant period—

23                  “(i) the number of cases described in  
24                  subparagraph (A) that were referred to a

1 supervisor pursuant to subparagraph (B),  
2 disaggregated by asylum office;

3 “(ii) the number of cases described in  
4 clause (i) that were approved subsequent  
5 to the referral to a supervisor pursuant to  
6 subparagraph (B);

7 “(iii) the number of cases described in  
8 clause (i) that were not approved subse-  
9 quent to the referral to a supervisor pursu-  
10 ant to subparagraph (B);

11 “(iv) a summary of the benefits for  
12 which any aliens described in subpara-  
13 graph (A) were considered amenable and  
14 whose cases were referred to a supervisor  
15 pursuant to subparagraph (B),  
16 disaggregated by case outcome referred to  
17 in clauses (ii) and (iii);

18 “(v) a description of any anomalous  
19 case outcomes for aliens described in sub-  
20 paragraph (A) whose cases were referred  
21 to a supervisor pursuant subparagraph  
22 (B); and

23 “(vi) a description of any actions  
24 taken to remedy the anomalous case out-  
25 comes referred to in clause (v).

1           “(E) PROTECTION OF PERSONALLY IDEN-  
2           TIFIABLE INFORMATION.—In preparing each re-  
3           port pursuant to subparagraph (D), the Direc-  
4           tor shall—

5                   “(i) protect any personally identifiable  
6                   information associated with aliens de-  
7                   scribed in subparagraph (A); and

8                   “(ii) comply with all applicable pri-  
9                   vacy laws.

10           “(6) EMPLOYMENT AUTHORIZATION.—An alien  
11           whose application for relief or protection has been  
12           approved by a supervisor pursuant to paragraph  
13           (5)(B) shall be issued employment authorization  
14           under section 235C.

15           “(d) NEGATIVE PROTECTION DETERMINATION.—

16                   “(1) IN GENERAL.—If an alien receives a nega-  
17                   tive protection determination, the asylum officer  
18                   shall—

19                           “(A) provide such alien with written notifi-  
20                           cation of such determination; and

21                           “(B) subject to paragraph (2), order the  
22                           alien removed from the United States without  
23                           hearing or review.

24                   “(2) OPPORTUNITY TO REQUEST RECONSIDER-  
25                   ATION OR APPEAL.—The Secretary shall notify any

1 alien described in paragraph (1) immediately after  
2 receiving notification of a negative protection deter-  
3 mination under this subsection that he or she—

4 “(A) may request reconsideration of such  
5 determination in accordance with paragraph  
6 (3); and

7 “(B) may request administrative review of  
8 such protection determination decision in ac-  
9 cordance with paragraph (4).

10 “(3) REQUEST FOR RECONSIDERATION.—

11 “(A) IN GENERAL.—Any alien with respect  
12 to whom a negative protection determination  
13 has been made may submit a request for recon-  
14 sideration to U.S. Citizenship and Immigration  
15 Services not later than 5 days after such deter-  
16 mination.

17 “(B) DECISION.—The Director, or des-  
18 ignee, in the Director’s unreviewable discretion,  
19 may grant or deny a request for reconsideration  
20 made pursuant to subparagraph (A), which de-  
21 cision shall not be subject to review.

22 “(4) ADMINISTRATIVE REVIEW.—

23 “(A) IN GENERAL.—Except as provided in  
24 subparagraph (B), the administrative review of  
25 a protection determination with respect to an

1 alien under this subsection shall be based on  
2 the record before the asylum officer at the time  
3 at which such protection determination was  
4 made.

5 “(B) EXCEPTION.—An alien referred to in  
6 subparagraph (A), or the alien’s counsel of  
7 record, may submit such additional evidence or  
8 testimony in accordance with such policies and  
9 procedures as the Secretary may prescribe.

10 “(C) REVIEW.—Each review described in  
11 subparagraph (A) shall be conducted by the  
12 Protection Appellate Board.

13 “(D) STANDARD OF REVIEW.—In accord-  
14 ance with the procedures prescribed by the Sec-  
15 retary, the Protection Appellate Board, upon  
16 the request of an alien, or the alien’s counsel of  
17 record, shall conduct a de novo review of the  
18 record of the protection determination carried  
19 out pursuant to this section with respect to the  
20 alien.

21 “(E) DETERMINATION.—

22 “(i) TIMING.—The Protection Appel-  
23 late Board shall complete a review under  
24 this paragraph, to the maximum extent  
25 practicable, not later than 72 hours after

1 receiving a request from an alien pursuant  
2 to subparagraph (D).

3 “(ii) EFFECT OF POSITIVE DETER-  
4 MINATION.—If, after conducting a review  
5 under this paragraph, the Protection Ap-  
6 pellate Board determines that an alien has  
7 a positive protection determination, the  
8 alien shall be referred for protection merits  
9 removal proceedings under section 240D.

10 “(iii) EFFECT OF NEGATIVE DETER-  
11 MINATION.—If, after conducting a review  
12 under this paragraph, the Protection Ap-  
13 pellate Board determines that an alien has  
14 a negative protection determination, the  
15 alien shall be ordered removed from the  
16 United States without additional review.

17 “(5) JURISDICTIONAL MATTERS.—In any action  
18 brought against an alien under section 275(a) or  
19 276, the court shall not have jurisdiction to hear any  
20 claim attacking the validity of an order of removal  
21 entered pursuant to subsection (c)(5)(C)(ii).

22 “(e) SERVICE OF PROTECTION DETERMINATION DE-  
23 CISION.—

24 “(1) PROTECTION DETERMINATION DECI-  
25 SION.—

1           “(A) IN GENERAL.—Upon reaching a deci-  
2           sion regarding a protection determination, the  
3           Secretary shall—

4                   “(i) immediately notify the alien, and  
5                   the alien’s counsel of record, if applicable,  
6                   that a determination decision has been  
7                   made; and

8                   “(ii) schedule the service of the pro-  
9                   tection determination decision, which shall  
10                  take place, to the maximum extent prac-  
11                  ticable, not later than 5 days after such  
12                  notification.

13           “(B) SPECIAL RULES.—

14                   “(i) LOCATION.—Each service of a  
15                   protection determination decision sched-  
16                   uled pursuant to subparagraph (A)(ii) may  
17                   occur at—

18                           “(I) a U.S. Immigration and  
19                           Customs Enforcement facility;

20                           “(II) an Immigration Court; or

21                           “(III) any other federally owned  
22                           or federally leased building that—

23                                   “(aa) the Secretary has au-  
24                                   thorized or entered into a memo-

1 random of agreement to be used  
2 for such purpose; and

3 “(bb) meets the minimum  
4 requirements under this subpara-  
5 graph.

6 “(ii) MINIMUM REQUIREMENTS.—In  
7 conducting each service of a protection de-  
8 termination decision, the Director shall en-  
9 sure compliance with the requirements set  
10 forth in clauses (ii)(II), (ii)(III), (ii)(IV),  
11 and (iii) of subsection (b)(3)(E).

12 “(2) PROCEDURES FOR SERVICE OF PROTEC-  
13 TION DETERMINATION DECISIONS.—

14 “(A) WRITTEN DECISION.—The Secretary  
15 shall ensure that each alien and the alien’s  
16 counsel of record, if applicable, attending a de-  
17 termination decision receives a written decision  
18 that includes, at a minimum, the articulated  
19 basis for the denial of the protection benefit  
20 sought by the alien.

21 “(B) LANGUAGE ACCESS.—The Secretary  
22 shall ensure that each written decision required  
23 under subparagraph (A) is delivered to the alien  
24 in—



1                   “(i) the alien’s native language, to the  
2                   maximum extent practicable; or

3                   “(ii) another language the alien un-  
4                   derstands.

5                   “(C) ACCESS TO COUNSEL.—An alien who  
6                   has obtained the services of counsel shall be  
7                   represented by such counsel, at no expense to  
8                   the Federal Government, at the service of the  
9                   protection determination. Nothing in this sub-  
10                  paragraph may be construed to create a sub-  
11                  stantive due process right or to unreasonably  
12                  delay the scheduling of the service of the pro-  
13                  tection determination.

14                  “(D) ASYLUM OFFICER.—A protection de-  
15                  termination decision may only be served by an  
16                  asylum officer.

17                  “(E) PROTECTIONS FOR ASYLUM OFFICER  
18                  DECISIONS BASED ON THE MERITS OF THE  
19                  CASE.—The Secretary may not impose restric-  
20                  tions on an asylum officer’s ability to grant or  
21                  deny relief sought by an alien in a protection  
22                  determination or protection merits interview  
23                  based on a numerical limitation.

24                  “(3) NEGATIVE PROTECTION DETERMINA-  
25                  TION.—

1           “(A) ADVISEMENT OF RIGHTS AND OPPOR-  
2           TUNITIES.—If an alien receives a negative pro-  
3           tection determination decision, the asylum offi-  
4           cer shall—

5                   “(i) advise the alien if an alternative  
6                   option of return is available to the alien,  
7                   including—

8                           “(I) voluntary departure;

9                           “(II) withdrawal of the alien’s  
10                          application for admission; or

11                          “(III) voluntary repatriation; and

12                          “(ii) provide written or verbal infor-  
13                          mation to the alien regarding the process,  
14                          procedures, and timelines for appealing  
15                          such denial, to the maximum extent prac-  
16                          ticable, in the alien’s native language, or in  
17                          a language the alien understands.

18           “(4) PROTECTION FOR CHILDREN.—In the case  
19           of a family unit, the Secretary shall ensure that the  
20           best interests of the child or children are considered  
21           when conducting a protection determination of the  
22           child’s family unit.

23           “(5) FINAL ORDER OF REMOVAL.—If an alien  
24           receives a negative protection determination decision,

1 an alien shall be removed in accordance with section  
2 241 upon a final order of removal.

3 “(f) FAILURE TO CONDUCT PROTECTION DETER-  
4 MINATION.—

5 “(1) IN GENERAL.—If the Secretary fails to  
6 conduct a protection determination for an alien dur-  
7 ing the 90-day period set forth in subsection  
8 (b)(3)(A), such alien shall be referred for protection  
9 merits removal proceedings in accordance with  
10 240D.

11 “(2) NOTICE OF PROTECTION MERITS INTER-  
12 VIEW.—

13 “(A) IN GENERAL.—If an alien is referred  
14 for protection merits removal proceedings pur-  
15 suant to paragraph (1), the Secretary shall  
16 properly file with U.S. Citizenship and Immi-  
17 gration Services and serve upon the alien, or  
18 the alien’s counsel of record, a notice of a pro-  
19 tection merits interview, in accordance with  
20 subsection (b)(2).

21 “(B) CONTENTS.—Each notice of protec-  
22 tion merits interview served pursuant to sub-  
23 paragraph (A)—

24 “(i) shall include each element de-  
25 scribed in subsection (b)(2); and

1 “(ii) shall—

2 “(I) inform the alien that an ap-  
3 plication for protection relief shall be  
4 submitted to the Secretary not later  
5 than 30 days before the date on which  
6 the alien’s protection merits interview  
7 is scheduled;

8 “(II) inform the alien that he or  
9 she shall receive employment author-  
10 ization, pursuant to section 235C, not  
11 later than 30 days after filing the ap-  
12 plication required under subclause (I);

13 “(III) inform the alien that he or  
14 she may submit evidence into the  
15 record not later than 30 days before  
16 the date on which the alien’s protec-  
17 tion merits interview is scheduled;

18 “(IV) describe—

19 “(aa) the penalties resulting  
20 from the alien’s failure to file the  
21 application required under sub-  
22 clause (I); and

23 “(bb) the terms and condi-  
24 tions for redressing such failure  
25 to file; and

1                   “(V) describe the penalties re-  
2                   sulting from the alien’s failure to ap-  
3                   pear for a scheduled protection merits  
4                   interview.

5                   “(3) DATE OF FILING.—The date on which an  
6                   application for protection relief is received by the  
7                   Secretary shall be considered the date of filing and  
8                   receipt for all purposes.

9                   “(4) EFFECT OF FAILURE TO FILE.—

10                   “(A) IN GENERAL.—Failure to timely file  
11                   an application for protection relief under this  
12                   subsection will result in an order of removal,  
13                   absent exceptional circumstances.

14                   “(B) OPPORTUNITY FOR REDRESS.—

15                   “(i) IN GENERAL.—The Secretary  
16                   shall promulgate regulations authorizing a  
17                   15-day opportunity for redress to file an  
18                   application for protection relief if there are  
19                   exceptional circumstances regarding the  
20                   alien’s failure to timely file an application  
21                   for protection relief.

22                   “(ii) CONTENTS.—Each application  
23                   submitted pursuant to clause (i) shall—

24                   “(I) describe the basis for such  
25                   request;

1 “(II) include supporting evidence;

2 and

3 “(III) identify the exceptional  
4 circumstances that led to the alien’s  
5 failure to file the application for pro-  
6 tection relief in a timely manner.

7 “(C) DECISION.—In evaluating a request  
8 for redress submitted pursuant to subparagraph  
9 (B)(i), the Director, or designee—

10 “(i) shall determine whether such re-  
11 quest rises to the level of exceptional cir-  
12 cumstances; and

13 “(ii) may schedule a protection deter-  
14 mination interview.

15 “(5) EMPLOYMENT AUTHORIZATION.—

16 “(A) IN GENERAL.—Employment author-  
17 ization shall be provided to aliens described in  
18 this subsection in accordance with section  
19 235C.

20 “(B) REVOCATION.—The Secretary may  
21 revoke the employment authorization provided  
22 to any alien processed under this section or sec-  
23 tion 240D if such alien—

1 “(i) has obtained authorization for  
2 employment pursuant to the procedures  
3 described in section 235C; and

4 “(ii) absent exceptional circumstances,  
5 subsequently fails to appear for a protec-  
6 tion determination under subsection (b)(3)  
7 or a protection merits interview under  
8 240D(c)(3).

9 “(g) FAILURE TO APPEAR.—

10 “(1) PROTECTION MERITS INTERVIEW.—The  
11 provisions of section 240(b)(5) shall apply to pro-  
12 ceedings under this section.

13 “(2) OPPORTUNITY TO REDRESS.—

14 “(A) IN GENERAL.—Not later than 15  
15 days after the date on which an alien fails to  
16 appear for a scheduled protection determination  
17 or protection merits interview, the alien may  
18 submit a written request for a rescheduled pro-  
19 tection determination or protection merits inter-  
20 view.

21 “(B) CONTENTS.—Each request submitted  
22 pursuant to subparagraph (A) shall—

23 “(i) describe the basis for such re-  
24 quest;

25 “(ii) include supporting evidence; and

1                   “(iii) identify the exceptional cir-  
2                   cumstances that led to the alien’s failure to  
3                   appear.

4                   “(C) DECISION.—In evaluating a request  
5                   submitted pursuant to subparagraph (A), the  
6                   Director, or designee shall determine whether  
7                   the evidence included in such request rises to  
8                   the level of exceptional circumstances. Such de-  
9                   cision shall not be reviewable.

10                  “(h) RULEMAKING.—

11                   “(1) IN GENERAL.—The Secretary may promul-  
12                   gate such regulations as are necessary to implement  
13                   this section in compliance with the requirements of  
14                   section 553 of title 5, United States Code.

15                   “(2) INITIAL IMPLEMENTATION.—Until the  
16                   date that is 180 days after the date of the enact-  
17                   ment of this section, the Secretary may issue any in-  
18                   terim final rules necessary to implement this section  
19                   without having to satisfy the requirements of section  
20                   553(b)(B) of title 5, United States Code, provided  
21                   that any such interim final rules shall include a 30-  
22                   day post promulgation notice and comment period  
23                   prior to finalization in the Federal Register.

24                   “(3) REQUIREMENT.—All regulations promul-  
25                   gated to implement this section beginning on the



1 date that is 180 days after the date of the enact-  
2 ment of this section, shall be issued pursuant to the  
3 requirements set forth in section 553 of title 5,  
4 United States Code.

5 “(i) SAVINGS PROVISIONS.—

6 “(1) EXPEDITED REMOVAL.—Nothing in this  
7 section may be construed to expand or restrict the  
8 Secretary’s discretion to carry out expedited remov-  
9 als pursuant to section 235 to the extent authorized  
10 by law. The Secretary shall not refer or place an  
11 alien in proceedings under section 235 if the alien  
12 has already been placed in or referred to proceedings  
13 under this section or section 240D.

14 “(2) DETENTION.—Nothing in this section may  
15 be construed to affect the authority of the Secretary  
16 to detain an alien released pursuant to this section  
17 if otherwise authorized by law.

18 “(3) SETTLEMENT AGREEMENTS.—Nothing in  
19 this section may be construed—

20 “(A) to expand or restrict any settlement  
21 agreement in effect as of the date of the enact-  
22 ment of this section; or

23 “(B) to abrogate any provision of the stip-  
24 ulated settlement agreement in *Reno v. Flores*,  
25 as filed in the United States District Court for

1           the Central District of California on January  
2           17, 1997 (CV–85–4544–RJK), including all  
3           subsequent court decisions, orders, agreements,  
4           and stipulations.

5           “(4) IMPACT ON OTHER REMOVAL PRO-  
6           CEEDINGS.—The provisions of this section may not  
7           be interpreted to apply to any other form of removal  
8           proceedings.

9           “(5) SPECIAL RULE.—For aliens who are na-  
10          tives or citizens of Cuba released pursuant to this  
11          section and who are otherwise eligible for adjust-  
12          ment of status under the first section of Public Law  
13          89–732 (8 U.S.C. 1255 note) (commonly known as  
14          the ‘Cuban Adjustment Act’), the requirement that  
15          an alien has been inspected and admitted or paroled  
16          into the United States shall not apply. Aliens who  
17          are natives or citizens of Cuba or Haiti and have  
18          been released pursuant to section 240 (8 U.S.C.  
19          1229) shall be considered to be individuals described  
20          in section 501(e)(1) of the Refugee Education As-  
21          sistance Act of 1980 (8 U.S.C. 1522 note).

22          “(6) REVIEW OF PROTECTION DETERMINA-  
23          TIONS.—Except for reviews of constitutional claims,  
24          no court shall have jurisdiction to review a protec-

1           tion determination issued by U.S. Citizenship and  
2           Immigration Services under this section.

3           “(7) FINAL REMOVAL ORDERS.—No court shall  
4           have jurisdiction to review a final order of removal  
5           issued under this section.

6           “(j) JUDICIAL REVIEW.—Notwithstanding any other  
7           provision of this Act, judicial review of any decision or ac-  
8           tion in this section shall be governed only by the United  
9           States District Court for the District of Columbia, which  
10          shall have sole and original jurisdiction to hear challenges,  
11          whether constitutional or otherwise, to the validity of this  
12          section or any written policy directive, written policy  
13          guideline, written procedure, or the implementation there-  
14          of, issued by or under the authority of the Secretary to  
15          implement this section.

16          “(k) REPORTS ON ASYLUM OFFICER GRANT  
17          RATES.—

18                 “(1) PUBLICATION OF ANNUAL REPORT.—Not  
19                 later than 1 year after the date of the enactment of  
20                 the Border Act, and annually thereafter, the Direc-  
21                 tor of U.S. Citizenship and Immigration Services  
22                 shall publish a report, on a publicly accessible  
23                 website of U.S. Citizenship and Immigration Serv-  
24                 ices, which includes, for the reporting period—

1           “(A) the number of protection determina-  
2           tions that were approved or denied; and

3           “(B) a description of any anomalous inci-  
4           dents identified by the Director, including any  
5           action taken by the Director to address such an  
6           incident.

7           “(2) SEMIANNUAL REPORT TO CONGRESS.—

8           “(A) IN GENERAL.—Not less frequently  
9           than twice each year, the Director of U.S. Citi-  
10          zenship and Immigration Services shall submit  
11          a report to the relevant committees of Congress  
12          that includes, for the preceding reporting pe-  
13          riod, and aggregated for the applicable calendar  
14          year—

15               “(i) the number of cases in which a  
16               protection determination or protection mer-  
17               its interview has been completed; and

18               “(ii) for each asylum office or duty  
19               station to which more than 20 asylum offi-  
20               cers are assigned—

21                       “(I) the median percentage of  
22                       positive determinations and protection  
23                       merits interviews in the cases de-  
24                       scribed in clause (i);

1                   “(II) the mean percentage of  
2                   negative determinations and protec-  
3                   tion merits interviews in such cases;  
4                   and

5                   “(III) the number of cases de-  
6                   scribed in subsection (c)(5) in which  
7                   an alien was referred to a supervisor  
8                   after demonstrating, by clear and con-  
9                   vincing evidence, eligibility for asylum,  
10                  withholding of removal, or protection  
11                  under the Convention Against Tor-  
12                  ture, disaggregated by benefit type;

13                  “(IV) the number of cases de-  
14                  scribed in clause (i) that were ap-  
15                  proved by a supervisor; and

16                  “(V) the number of cases de-  
17                  scribed in clause (i) that were not ap-  
18                  proved by a supervisor.

19                  “(B) PRESENTATION OF DATA.—The in-  
20                  formation described in subparagraph (A) shall  
21                  be provided in the format of aggregate totals by  
22                  office or duty station.

23                  “(1) DEFINITIONS.—In this section:

24                  “(1) APPLICATION FOR PROTECTION RELIEF.—  
25                  The term ‘application for protection relief’ means

1 any request, application or petition authorized by  
2 the Secretary for asylum, withholding of removal, or  
3 protection under the Convention Against Torture.

4 “(2) ASYLUM OFFICER.—The term ‘asylum offi-  
5 cer’ has the meaning given such term in section  
6 235(b)(1)(E).

7 “(3) CONVENTION AGAINST TORTURE.—The  
8 term ‘Convention Against Torture’ means the  
9 United Nations Convention against Torture and  
10 Other Cruel, Inhuman or Degrading Treatment or  
11 Punishment, done at New York December 10, 1984,  
12 including any implementing regulations.

13 “(4) DIRECTOR.—The term ‘Director’ means  
14 the Director of U.S. Citizenship and Immigration  
15 Services.

16 “(5) EXCEPTIONAL CIRCUMSTANCES.—The  
17 term ‘exceptional circumstances’ has the meaning  
18 given such term in section 240(e)(1).

19 “(6) FINAL ORDER OF REMOVAL.—The term  
20 ‘final order of removal’ means an order of removal  
21 made by an asylum officer at the conclusion of a  
22 protection determination, and any appeal of such  
23 order, as applicable.

24 “(7) PROTECTION APPELLATE BOARD.—The  
25 term ‘Protection Appellate Board’ means the Protec-

1           tion Appellate Board established under section 463  
2           of the Homeland Security Act of 2002.

3           “(8) PROTECTION DETERMINATION DECI-  
4           SION.—The term ‘protection determination decision’  
5           means the service of a negative or positive protection  
6           determination outcome.

7           “(9) RELEVANT COMMITTEES OF CONGRESS.—  
8           The term ‘relevant committees of Congress’ means—

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

11                  “(B) the Committee on the Judiciary of  
12                  the Senate;

13                  “(C) the Committee on Appropriations of  
14                  the Senate;

15                  “(D) the Committee on Homeland Security  
16                  of the House of Representatives;

17                  “(E) the Committee on the Judiciary of  
18                  the House of Representatives;

19                  “(F) the Committee on Appropriations of  
20                  the House of Representatives; and

21                  “(G) the Committee on Oversight and Ac-  
22                  countability of the House of Representatives.

23           “(10) SECRETARY.—The term ‘Secretary’  
24           means the Secretary of Homeland Security.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 of the Immigration and Nationality Act (8 U.S.C. 1101  
3 note) is amended by inserting after the item relating to  
4 section 235A the following:

“Sec. 235B. Provisional noncustodial removal proceedings.”.

5 **SEC. 142. PROTECTION MERITS REMOVAL PROCEEDINGS.**

6 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
7 gration and Nationality Act (8 U.S.C. 1221 et seq.) is  
8 amended by inserting after section 240C the following:

9 **“SEC. 240D. PROTECTION MERITS REMOVAL PROCEEDINGS.**

10 “(a) COMMENCEMENT OF PROCEEDINGS.—Removal  
11 proceedings under this section shall commence imme-  
12 diately after the Secretary properly serves notice on an  
13 alien who was—

14 “(1) processed under section 235B and referred  
15 under subsection (c)(4) of that section after having  
16 been issued a notice of a positive protection deter-  
17 mination under such subsection; or

18 “(2) referred under section 235B(f).

19 “(b) DURATION OF PROCEEDINGS.—To the max-  
20 imum extent practicable, proceedings under this section  
21 shall conclude not later than 90 days after the date on  
22 which such proceedings commence.

23 “(c) PROCEDURES.—

24 “(1) SERVICE AND NOTICE REQUIREMENTS.—

25 Upon the commencement of proceedings under this



1 section, the Secretary shall provide notice of removal  
2 proceedings to the alien, or if personal service is not  
3 practicable, to the alien’s counsel of record. Such no-  
4 tice shall be provided, to the maximum extent prac-  
5 ticable, in the alien’s native language, or in a lan-  
6 guage the alien understands, and shall specify or  
7 provide—

8 “(A) the nature of the proceedings against  
9 the alien;

10 “(B) the legal authority under which such  
11 proceedings will be conducted;

12 “(C) the charges against the alien and the  
13 statutory provisions alleged to have been vio-  
14 lated by the alien;

15 “(D) that the alien shall—

16 “(i) immediately provide (or have pro-  
17 vided) to the Secretary, in writing, the  
18 mailing address, contact information, email  
19 address or other electronic address, and  
20 telephone number (if any) at which the  
21 alien may be contacted respecting the pro-  
22 ceeding under this section; and

23 “(ii) provide to the Secretary, in writ-  
24 ing, any change of the alien’s mailing ad-

1 dress or telephone number after any such  
2 change;

3 “(E)(i) the time and place at which the  
4 proceeding under this section will be held,  
5 which information shall be communicated, to  
6 the extent practicable, before or during the  
7 alien’s release from physical custody; or

8 “(ii) immediately after release, the time  
9 and place of such proceeding shall be provided  
10 to the alien, or to the alien’s counsel of record,  
11 not later than 10 days before the scheduled pro-  
12 tection determination interview, which shall be  
13 considered proper service of the commencement  
14 of proceedings;

15 “(F) the consequences for the alien’s fail-  
16 ure to appear at such proceeding pursuant to  
17 section 240(b)(5)(A), absent exceptional cir-  
18 cumstances;

19 “(G) the alien’s right to be represented, at  
20 no expense to the Federal Government, by any  
21 counsel, or an accredited representative, se-  
22 lected by the alien who is authorized to practice  
23 in such a proceeding; and

24 “(H) information described in section  
25 235(b)(1)(B)(iv)(II).

1           “(2) ALTERNATIVES TO DETENTION.—An adult  
2 alien, including a head of household, who has been  
3 referred for proceedings under this section, shall be  
4 supervised under the Alternatives to Detention pro-  
5 gram of U.S. Immigration and Customs Enforce-  
6 ment for the duration of such proceedings.

7           “(3) PROTECTION MERITS INTERVIEW.—

8           “(A) IN GENERAL.—An asylum officer  
9 shall conduct a protection merits interview of  
10 each alien processed under this section.

11           “(B) ACCESS TO COUNSEL.—Section  
12 235B(b)(3)(B) shall apply to proceedings under  
13 this section.

14           “(C) PROCEDURES AND EVIDENCE.—The  
15 asylum officer may receive into evidence any  
16 oral or written statement that is material and  
17 relevant to any matter in the protection merits  
18 interview. The testimony of the alien shall be  
19 under oath or affirmation, which shall be ad-  
20 ministered by the asylum officer.

21           “(D) TRANSLATION OF DOCUMENTS.—Any  
22 foreign language document offered by a party  
23 in proceedings under this section shall be ac-  
24 companied by an English language translation  
25 and a certification signed by the translator,

1           which shall be printed legibly or typed. Such  
2           certification shall include a statement that the  
3           translator is competent to translate the docu-  
4           ment, and that the translation is true and accu-  
5           rate to the best of the translator’s abilities.

6           “(E) INTERPRETERS.—An interpreter may  
7           be provided to the alien for the proceedings  
8           under this section, in accordance with section  
9           235B(b)(3)(D).

10          “(F) LOCATION.—The location for the pro-  
11          tection merits interview described in this section  
12          shall be determined in accordance with the  
13          terms and conditions described in section  
14          235B(b)(3)(E).

15          “(G) WRITTEN RECORD.—The asylum offi-  
16          cer shall prepare a written record of each pro-  
17          tection merits interview, which shall be provided  
18          to the alien or the alien’s counsel, that in-  
19          cludes—

20                 “(i) a summary of the material facts  
21                 stated by the alien;

22                 “(ii) any additional facts relied upon  
23                 by the asylum officer;

24                 “(iii) the asylum officer’s analysis of  
25                 why, in light of the facts referred to in

1 clauses (i) and (ii), the alien has or has  
2 not established eligibility for asylum under  
3 section 208, withholding of removal under  
4 section 241(b)(3), or protection under the  
5 Convention Against Torture; and

6 “(iv) a copy of the asylum officer’s  
7 interview notes.

8 “(H) PROTECTION OF CERTAIN INFORMA-  
9 TION.—Before providing the record described in  
10 subparagraph (G) to the alien or the alien’s  
11 counsel of record, the Director shall protect any  
12 information the disclosure of which is prohib-  
13 ited by law.

14 “(I) RULEMAKING.—The Secretary shall  
15 promulgate regulations that permit an alien to  
16 request a rescheduled interview due to excep-  
17 tional circumstances.

18 “(J) WITHDRAWAL OF APPLICATION, VOL-  
19 UNTARY DEPARTURE, AND VOLUNTARY REPA-  
20 TRIATION.—

21 “(i) VOLUNTARY DEPARTURE.—The  
22 Secretary may permit an alien to volun-  
23 tarily depart in accordance with section  
24 240E.

1                   “(ii) WITHDRAWAL OF APPLICA-  
2                   TION.—The Secretary may permit an alien,  
3                   at any time before the protection merits  
4                   interview, to withdraw his or her applica-  
5                   tion and depart immediately from the  
6                   United States in accordance with section  
7                   240F.

8                   “(iii) VOLUNTARY REPATRIATION.—  
9                   The Secretary may permit an alien to vol-  
10                  untarily repatriate in accordance with sec-  
11                  tion 240G.

12                  “(4) SPECIAL RULE RELATING TO ONE-YEAR  
13                  BAR.—An alien subject to proceedings under this  
14                  section shall not be subject to the one-year bar  
15                  under section 208(a)(2)(B).

16                  “(5) TIMING OF PROTECTION MERITS INTER-  
17                  VIEW.—A protection merits interview may not be  
18                  conducted on a date that is earlier than 30 days  
19                  after the date on which notice is served under para-  
20                  graph (1).

21                  “(d) PROTECTION MERITS DETERMINATION.—

22                  “(1) IN GENERAL.—After conducting an alien’s  
23                  protection merits interview, the asylum officer shall  
24                  make a determination on the merits of the alien’s  
25                  application for asylum under section 208, with-

1 holding of removal under section 241(b)(3), or pro-  
2 tection under the Convention Against Torture.

3 “(2) POSITIVE PROTECTION MERITS DETER-  
4 MINATION.—In the case of an alien who the asylum  
5 officer determines meets the criteria for a positive  
6 protection merits determination, the asylum officer  
7 shall approve the alien’s application for asylum  
8 under section 208, withholding of removal under sec-  
9 tion 241(b)(3), or protection under the Convention  
10 Against Torture.

11 “(3) NEGATIVE PROTECTION MERITS DETER-  
12 MINATION.—

13 “(A) IN GENERAL.—In the case of an alien  
14 who the asylum officer determines does not  
15 meet the criteria for a positive protection merits  
16 determination—

17 “(i) the asylum officer shall deny the  
18 alien’s application for asylum under section  
19 208, withholding of removal under section  
20 241(b)(3), or protection under the Conven-  
21 tion Against Torture; and

22 “(ii) the Secretary shall—

23 “(I) provide the alien with writ-  
24 ten notice of the decision; and

1                   “(II) subject to subparagraph  
2                   (B) and subsection (e), order the re-  
3                   moval of the alien from the United  
4                   States.

5                   “(B) REQUEST FOR RECONSIDERATION.—  
6                   Any alien with respect to whom a negative pro-  
7                   tection merits determination has been made  
8                   may submit a request for reconsideration to  
9                   U.S. Citizenship and Immigration Services not  
10                  later than 5 days after such determination, in  
11                  accordance with the procedures set forth in sec-  
12                  tion 235B(d)(3).

13                  “(e) APPEALS.—

14                  “(1) IN GENERAL.—An alien with respect to  
15                  whom a negative protection merits determination  
16                  has been made may submit to the Protection Appel-  
17                  late Board a written petition for review of such de-  
18                  termination, together with additional evidence sup-  
19                  porting the alien’s claim, as applicable, not later  
20                  than 7 days after the date on which a request for  
21                  reconsideration under subsection (d)(3)(B) has been  
22                  denied.

23                  “(2) SWORN STATEMENT.—A petition for re-  
24                  view submitted under this subsection shall include a  
25                  sworn statement by the alien.



1 “(3) RESPONSIBILITIES OF THE DIRECTOR.—

2 “(A) IN GENERAL.—After the filing of a  
3 petition for review by an alien, the Director  
4 shall—

5 “(i) refer the alien’s petition for re-  
6 view to the Protection Appellate Board;  
7 and

8 “(ii) before the date on which the  
9 Protection Appellate Board commences re-  
10 view, subject to subparagraph (B), provide  
11 a full record of the alien’s protection mer-  
12 its interview, including a transcript of such  
13 interview—

14 “(I) to the Protection Appellate  
15 Board; and

16 “(II) to the alien, or the alien’s  
17 counsel of record.

18 “(B) PROTECTION OF CERTAIN INFORMA-  
19 TION.—Before providing the record described in  
20 subparagraph (A)(ii)(II) to the alien or the  
21 alien’s counsel of record, the Director shall pro-  
22 tect any information the disclosure of which is  
23 prohibited by law.

24 “(4) STANDARD OF REVIEW.—

1           “(A) IN GENERAL.—In reviewing a protec-  
2           tion merits determination under this subsection,  
3           the Protection Appellate Board shall—

4                   “(i) with respect to questions of fact,  
5                   determine whether the decision reached by  
6                   the asylum officer with initial jurisdiction  
7                   regarding the alien’s eligibility for relief or  
8                   protection was clear error; and

9                   “(ii) with respect to questions of law,  
10                  discretion, and judgement, make a de novo  
11                  determination with respect to the alien’s  
12                  eligibility for relief or protection.

13           “(B) in making a determination under  
14           clause (i) or (ii) of subparagraph (A), take into  
15           account the credibility of the statements made  
16           by the alien in support of the alien’s claim and  
17           such other facts as are known to the Protection  
18           Appellate Board.

19           “(5) COMPLETION.—To the maximum extent  
20           practicable, not later than 7 days after the date on  
21           which an alien files a petition for review with the  
22           Protection Appellate Board, the Protection Appellate  
23           Board shall conclude the review.

24           “(6) OPPORTUNITY TO SUPPLEMENT.—The  
25           Protection Appellate Board shall establish a process

1 by which an alien, or the alien’s counsel of record,  
2 may supplement the record for purposes of a review  
3 under this subsection not less than 30 days before  
4 the Protection Appellate Board commences the re-  
5 view.

6 “(7) RESULT OF REVIEW.—

7 “(A) VACATUR OF ORDER OF REMOVAL.—

8 In the case of a determination by the Protection  
9 Appellate Board that the application of an alien  
10 for asylum warrants approval, the Protection  
11 Appellate Board shall vacate the order of re-  
12 moval issued by the asylum officer and grant  
13 such application.

14 “(B) WITHHOLDING OF REMOVAL AND  
15 CONVENTION AGAINST TORTURE ORDER OF RE-  
16 MOVAL.—In the case of a determination by the  
17 Protection Appellate Board that the application  
18 of an alien for withholding of removal under  
19 section 241(b)(3) or protection under the Con-  
20 vention Against Torture warrants approval, the  
21 Protection Appellate Board—

22 “(i) shall not vacate the order of re-  
23 moval issued by the asylum officer; and

24 “(ii) shall grant the application for  
25 withholding of removal under section

1                   241(b)(3) or protection under the Conven-  
2                   tion Against Torture, as applicable.

3                   “(C) AFFIRMATION OF ORDER OF RE-  
4                   MOVAL.—In the case of a determination by the  
5                   Protection Appellate Board that the petition for  
6                   review of a protection merits interview does not  
7                   warrant approval, the Protection Appellate  
8                   Board shall affirm the denial of such applica-  
9                   tion and the order of removal shall become  
10                  final.

11                  “(D) NOTIFICATION.—Upon making a de-  
12                  termination with respect to a review under this  
13                  subsection, the Protection Appellate Board shall  
14                  expeditiously provide notice of the determina-  
15                  tion to the alien and, as applicable, to the  
16                  alien’s counsel of record.

17                  “(8) MOTION TO REOPEN OR MOTION TO RE-  
18                  CONSIDER.—

19                  “(A) MOTION TO REOPEN.—A motion to  
20                  reopen a review conducted by the Protection  
21                  Appellate Board shall state new facts and shall  
22                  be supported by documentary evidence. The re-  
23                  submission of previously provided evidence or  
24                  reassertion of previously stated facts shall not  
25                  be sufficient to meet the requirements of a mo-

1           tion to reopen under this subparagraph. An  
2           alien with a pending motion to reopen may be  
3           removed if the alien’s order of removal is final,  
4           pending a decision on a motion to reopen.

5           “(B) MOTION TO RECONSIDER.—

6           “(i) IN GENERAL.—A motion to re-  
7           consider a decision of the Protection Ap-  
8           pellate Board—

9           “(I) shall establish that—

10           “(aa) the Protection Appel-  
11           late Board based its decision on  
12           an incorrect application of law or  
13           policy; and

14           “(bb) the decision was incor-  
15           rect based on the evidence in the  
16           record of proceedings at the time  
17           of the decision; and

18           “(II) shall be filed not later than  
19           30 days after the date on which the  
20           decision was issued.

21           “(ii) LIMITATION.—The Protection  
22           Appellate Board shall not consider new  
23           facts or evidence submitted in support of a  
24           motion to reconsider.

25           “(f) ORDER OF REMOVAL.—

1           “(1) IN GENERAL.—The Secretary—

2                   “(A) shall have exclusive and final jurisdic-  
3           tion over the denial of an application for relief  
4           or protection under this section; and

5                   “(B) may remove an alien to a country  
6           where the alien is a subject, national, or citizen,  
7           or in the case of an alien having no nationality,  
8           the country of the alien’s last habitual resi-  
9           dence, or in accordance with the processes es-  
10          tablished under section 241, unless removing  
11          the alien to such country would be prejudicial  
12          to the interests of the United States.

13           “(2) DETENTION; REMOVAL.—The terms and  
14          conditions under section 241 shall apply to the de-  
15          tention and removal of aliens ordered removed from  
16          the United States under this section.

17          “(g) LIMITATION ON JUDICIAL REVIEW.—

18                   “(1) DENIALS OF PROTECTION.—Except for re-  
19          view of constitutional claims, no court shall have ju-  
20          risdiction to review a decision issued by U.S. Citi-  
21          zenship and Immigration Services under this section  
22          denying an alien’s application for asylum under sec-  
23          tion 208, withholding of removal under section  
24          241(b)(3), or protection under the Convention  
25          Against Torture.

1           “(2) FINAL REMOVAL ORDERS.—No court shall  
2           have jurisdiction to review a final order of removal  
3           issued under this section.

4           “(h) RULEMAKING.—

5           “(1) IN GENERAL.—The Secretary may promul-  
6           gate such regulations as are necessary to implement  
7           this section in compliance with the requirements of  
8           section 553 of title 5, United States Code.

9           “(2) INITIAL IMPLEMENTATION.—Until the  
10          date that is 180 days after the date of the enact-  
11          ment of this section, the Secretary may issue any in-  
12          terim final rules necessary to implement this section  
13          without having to satisfy the requirements of section  
14          553(b)(B) of title 5, United States Code, provided  
15          that any such interim final rules shall include a 30-  
16          day post promulgation notice and comment period  
17          prior to finalization in the Federal Register.

18          “(3) REQUIREMENT.—All regulations promul-  
19          gated to implement this section beginning on the  
20          date that is 180 days after the date of the enact-  
21          ment of this section, shall be issued pursuant to the  
22          requirements set forth in section 553 of title 5,  
23          United States Code.

24          “(i) SAVINGS PROVISIONS.—

1           “(1) DETENTION.—Nothing in this section may  
2           be construed to affect the authority of the Secretary  
3           to detain an alien who is processed, including for re-  
4           lease, under this section if otherwise authorized by  
5           law.

6           “(2) SETTLEMENT AGREEMENTS.—Nothing in  
7           this section may be construed—

8                   “(A) to expand or restrict any settlement  
9                   agreement in effect on the date of the enact-  
10                  ment of this section; or

11                   “(B) to abrogate any provision of the stip-  
12                  ulated settlement agreement in *Reno v. Flores*,  
13                  as filed in the United States District Court for  
14                  the Central District of California on January  
15                  17, 1997 (CV-85-4544-RJK), including all  
16                  subsequent court decisions, orders, agreements,  
17                  and stipulations.

18           “(3) IMPACT ON OTHER REMOVAL PRO-  
19           CEEDINGS.—The provisions of this section may not  
20           be interpreted to apply to any other form of removal  
21           proceedings.

22           “(4) CONVERSION TO REMOVAL PROCEEDINGS  
23           UNDER SECTION 240.—The asylum officer or immi-  
24           gration officer may refer or place an alien into re-  
25           moval proceedings under section 240 by issuing a



1 notice to appear for the purpose of initiating such  
2 proceedings if either such officer determines that—

3 “(A) such proceedings are required in  
4 order to permit the alien to seek an immigra-  
5 tion benefit for which the alien is legally enti-  
6 tled to apply; and

7 “(B) such application requires such alien  
8 to be placed in, or referred to proceedings  
9 under section 240 that are not available to such  
10 alien under this section.

11 “(j) FAMILY UNITY.—In the case of an alien with  
12 a minor child in the United States who has been ordered  
13 removed pursuant to this section, the Secretary shall en-  
14 sure that such alien is removed with the minor child, if  
15 the alien elects.

16 “(k) JUDICIAL REVIEW.—Notwithstanding any other  
17 provision of this Act, judicial review of any decision or ac-  
18 tion in this section shall be governed only by the United  
19 States District Court for the District of Columbia, which  
20 shall have sole and original jurisdiction to hear challenges,  
21 whether constitutional or otherwise, to the validity of this  
22 section or any written policy directive, written policy  
23 guideline, written procedure, or the implementation there-  
24 of, issued by or under the authority of the Secretary to  
25 implement this section.

1 “(1) DEFINITIONS.—In this section:

2 “(1) ASYLUM OFFICER.—The term ‘asylum offi-  
3 cer’ has the meaning given such term in section  
4 235(b)(1)(E).

5 “(2) CONVENTION AGAINST TORTURE.—The  
6 term ‘Convention Against Torture’ means the  
7 United Nations Convention against Torture and  
8 Other Cruel, Inhuman or Degrading Treatment or  
9 Punishment, done at New York December 10, 1984,  
10 including any implementing regulations.

11 “(3) DIRECTOR.—The term ‘Director’ means  
12 the Director of U.S. Citizenship and Immigration  
13 Services.

14 “(4) EXCEPTIONAL CIRCUMSTANCES.—The  
15 term ‘exceptional circumstances’ has the meaning  
16 given such term in section 240(e)(1).

17 “(5) FINAL ORDER OF REMOVAL.—The term  
18 ‘final order of removal’ means an order of removal  
19 made by an asylum officer at the conclusion of a  
20 protection determination, and any appeal of such  
21 order, as applicable.

22 “(6) PROTECTION APPELLATE BOARD.—The  
23 term ‘Protection Appellate Board’ means the Protec-  
24 tion Appellate Board established under section 463  
25 of the Homeland Security Act of 2002.

1           “(7) PROTECTION DETERMINATION DECI-  
2           SION.—The term ‘protection determination decision’  
3           means the service of a negative or positive protection  
4           determination outcome.

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

7           (b) CLERICAL AMENDMENT.—The table of contents  
8           of the Immigration and Nationality Act (8 U.S.C. 1101  
9           et seq.) is amended by inserting after the item relating  
10          to section 240C the following:

          “Sec. 240D. Protection merits removal proceedings.”.

11   **SEC. 143. VOLUNTARY DEPARTURE AFTER NONCUSTODIAL**  
12                           **PROCESSING; WITHDRAWAL OF APPLICATION**  
13                           **FOR ADMISSION.**

14          (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
15          gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
16          amended by section 142(a), is further amended by insert-  
17          ing after section 240D the following:

18   **“SEC. 240E. VOLUNTARY DEPARTURE AFTER NONCUSTO-**  
19                           **DIAL PROCESSING.**

20          “(a) CONDITIONS.—

21                  “(1) IN GENERAL.—The Secretary of Homeland  
22                  Security (referred to in this section as the ‘Sec-  
23                  retary’) may permit an alien to voluntarily depart  
24                  the United States under this subsection, at the  
25                  alien’s own expense, instead of being subject to pro-

1       ceedings under section 235B or 240D or before the  
2       completion of such proceedings, if such alien is not  
3       deportable under paragraph (2)(A)(iii) or (4)(B) of  
4       section 237(a).

5               “(2) PERIOD OF VALIDITY.—Permission to de-  
6       part voluntarily under this subsection shall be valid  
7       for a period not to exceed 120 days.

8               “(3) DEPARTURE BOND.—The Secretary may  
9       require an alien permitted to depart voluntarily  
10      under this subsection to post a voluntary departure  
11      bond, which shall be surrendered upon proof that  
12      the alien has departed the United States within the  
13      time specified in such bond.

14      “(b) AT CONCLUSION OF PROCEEDINGS.—

15              “(1) IN GENERAL.—The Secretary may permit  
16      an alien to voluntarily depart the United States  
17      under this subsection, at the alien’s own expense, if,  
18      at the conclusion of a proceeding under section  
19      240D, the asylum officer—

20              “(A) enters an order granting voluntary  
21      departure instead of removal; and

22              “(B) determines that the alien—

23              “(i) has been physically present in the  
24      United States for not less than 60 days  
25      immediately preceding the date on which

1 proper notice was served in accordance  
2 with section 235B(e)(2);

3 “(ii) is, and has been, a person of  
4 good moral character for at least 5 years  
5 immediately preceding the alien’s applica-  
6 tion for voluntary departure;

7 “(iii) is not deportable under para-  
8 graph (2)(A)(iii) or (4) of section 237(a);  
9 and

10 “(iv) has established, by clear and  
11 convincing evidence, that he or she has the  
12 means to depart the United States and in-  
13 tends to do so.

14 “(2) DEPARTURE BOND.—The Secretary shall  
15 require any alien permitted to voluntarily depart  
16 under this subsection to post a voluntary departure  
17 bond, in an amount necessary to ensure that such  
18 alien will depart, which shall be surrendered upon  
19 proof that the alien has departed the United States  
20 within the time specified in such bond.

21 “(c) INELIGIBLE ALIENS.—The Secretary shall not  
22 permit an alien to voluntarily depart under this section  
23 if such alien was previously permitted to voluntarily depart  
24 after having been found inadmissible under section  
25 212(a)(6)(A).

1 “(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

2 “(1) IN GENERAL.—Subject to paragraph (2),  
3 an alien who was permitted to voluntarily depart the  
4 United States under this section and fails to volun-  
5 tarily depart within the period specified by the Sec-  
6 retary—

7 “(A) shall be subject to a civil penalty of  
8 not less than \$1,000 and not more than  
9 \$5,000; and

10 “(B) shall be ineligible, during the 10-year  
11 period beginning on the last day such alien was  
12 permitted to voluntarily depart, to receive any  
13 further relief under this section and sections  
14 240A, 245, 248, and 249.

15 “(2) SPECIAL RULE.—The restrictions on relief  
16 under paragraph (1) shall not apply to individuals  
17 identified in section 240B(d)(2).

18 “(3) NOTICE.—The order permitting an alien  
19 to voluntarily depart shall describe the penalties  
20 under this subsection.

21 “(e) ADDITIONAL CONDITIONS.—The Secretary may  
22 prescribe regulations that limit eligibility for voluntary de-  
23 parture under this section for any class of aliens. No court  
24 may review any regulation issued under this subsection.



1           “(c) CONSEQUENCE FOR FAILURE TO DEPART.—An  
2 alien who is permitted to withdraw his or her application  
3 for admission under this section and fails to voluntarily  
4 depart the United States within the period specified by  
5 the Secretary pursuant to subsection (b) shall be ineligible,  
6 during the 5-year period beginning on the last day of such  
7 period, to receive any further relief under this section and  
8 section 240A.

9           “(d) FAMILY UNITY.—In the case of an alien with  
10 a minor child in the United States who has been ordered  
11 removed after withdrawing an application under this sec-  
12 tion, the Secretary shall ensure that such alien is removed  
13 with the minor child, if the alien elects.

14           “(e) RULE OF CONSTRUCTION.—Nothing in this sec-  
15 tion may be construed to affect any withdrawal require-  
16 ments in any other section of this Act.”.

17           (b) CLERICAL AMENDMENT.—The table of contents  
18 of the Immigration and Nationality Act (8 U.S.C. 1101  
19 et seq.), as amended by section 142(b), is further amended  
20 by inserting after the item relating to section 240D the  
21 following:

“Sec. 240E. Voluntary departure after noncustodial processing.

“Sec. 240F. Withdrawal of application for admission.”.

22 **SEC. 144. VOLUNTARY REPATRIATION.**

23           (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
24 gration and Nationality Act (8 U.S.C. 1221 et seq.), as



1 amended by section 143(a), is further amended by insert-  
2 ing after section 240F, the following:

3 **“SEC. 240G. VOLUNTARY REPATRIATION.**

4 “(a) ESTABLISHMENT.—The Secretary of Homeland  
5 Security (referred to in this section as the ‘Secretary’)  
6 shall establish a voluntary repatriation program in accord-  
7 ance with the terms and conditions of this section.

8 “(b) VOLUNTARY REPATRIATION IN LIEU OF PRO-  
9 CEEDINGS.—Under the voluntary repatriation program es-  
10 tablished under subsection (a), the Secretary may permit  
11 an alien to elect, at any time during proceedings under  
12 section 235B or before the alien’s protection merits deter-  
13 mination under section 240D(d), voluntary repatriation in  
14 lieu of continued proceedings under section 235B or  
15 240D.

16 “(c) PERIOD OF VALIDITY.—An alien who elects vol-  
17 untary repatriation shall depart the United States within  
18 a period determined by the Secretary, which may not ex-  
19 ceed 120 days.

20 “(d) PROCEDURES.—Consistent with subsection (b),  
21 the Secretary may permit an alien to elect voluntary repa-  
22 triation if the asylum officer—

23 “(1) enters an order granting voluntary repatri-  
24 ation instead of an order of removal; and

25 “(2) determines that the alien—

1           “(A) has been physically present in the  
2           United States immediately preceding the date  
3           on which the alien elects voluntary repatriation;

4           “(B) is, and has been, a person of good  
5           moral character for the entire period the alien  
6           is physically present in the United States;

7           “(C) is not described in paragraph  
8           (2)(A)(iii) or (4) of section 237(a);

9           “(D) meets the applicable income require-  
10          ments, as determined by the Secretary; and

11          “(E) has not previously elected voluntary  
12          repatriation.

13          “(e) MINIMUM REQUIREMENTS.—

14                 “(1) NOTICE.—The notices required to be pro-  
15                 vided to an alien under sections 235B(b)(2) and  
16                 240D(c)(1) shall include information on the vol-  
17                 untary repatriation program.

18                 “(2) VERBAL REQUIREMENTS.—The asylum of-  
19                 ficer shall verbally provide the alien with information  
20                 about the opportunity to elect voluntary repatri-  
21                 ation—

22                         “(A) at the beginning of a protection de-  
23                         termination under section 235B(c)(2); and

24                         “(B) at the beginning of the protection  
25                         merits interview under section 240D(b)(3).

1           “(3) WRITTEN REQUEST.—An alien subject to  
2           section 235B or 240D—

3           “(A) may elect voluntary repatriation at  
4           any time during proceedings under 235B or be-  
5           fore the protection merits determination under  
6           section 240D(d); and

7           “(B) may only elect voluntary repatri-  
8           ation—

9           “(i) knowingly and voluntarily; and

10           “(ii) in a written format, to the max-  
11           imum extent practicable, in the alien’s na-  
12           tive language or in a language the alien  
13           understands, or in an alternative record if  
14           the alien is unable to write.

15           “(f) REPATRIATION.—The Secretary is authorized to  
16           provide transportation to aliens, including on commercial  
17           flights, if such aliens elect voluntary repatriation.

18           “(g) REINTEGRATION.—Upon election of voluntary  
19           repatriation, the Secretary shall advise the alien of any  
20           applicable reintegration or reception program available in  
21           the alien’s country of nationality.

22           “(h) FAMILY UNITY.—In the case of an alien with  
23           a minor child in the United States who has been permitted  
24           to voluntarily repatriate pursuant to this section, the Sec-

1   retary shall ensure that such alien is repatriated with the  
2   minor child, if the alien elects.

3       “(i) IMMIGRATION CONSEQUENCES.—

4           “(1) ELECTION TIMING.—In the case of an  
5   alien who elects voluntary repatriation at any time  
6   during proceeding under section 235B or before the  
7   protection merits interview, a final order of removal  
8   shall not be entered against the alien.

9           “(2) FAILURE TO TIMELY DEPART.—In the  
10  case of an alien who elects voluntary repatriation  
11  and fails to depart the United States before the end  
12  of the period of validity under subsection (c)—

13           “(A) the alien shall be subject to a civil  
14   penalty in an amount equal to the cost of the  
15   commercial flight or the ticket, or tickets, to the  
16   country of nationality;

17           “(B) during the 10-year period beginning  
18   on the date on which the period of validity  
19   under subsection (c) ends, the alien shall be in-  
20   eligible for relief under—

21           “(i) this section;

22           “(ii) section 240A; and

23           “(iii) section 240E; and

24           “(C) a final order of removal shall be en-  
25   tered against the alien.

1           “(3) EXCEPTIONS.—Paragraph (2) shall not  
2           apply to a child of an adult alien who elected vol-  
3           untary repatriation.

4           “(j) CLERICAL MATTERS.—

5           “(1) RULE OF CONSTRUCTION.—Nothing in  
6           this section may be construed to affect any voluntary  
7           departure under any other section of this Act.

8           “(2) SAVINGS CLAUSE.—Nothing in this section  
9           may be construed to supersede the requirements of  
10          section 241(b)(3).

11          “(3) JUDICIAL REVIEW.—No court shall have  
12          jurisdiction of the Secretary’s decision, in the Sec-  
13          retary’s sole discretion, to permit an alien to elect  
14          voluntary repatriation. No court may order a stay of  
15          an alien’s removal pending consideration of any  
16          claim with respect to voluntary repatriation.

17          “(4) APPROPRIATIONS.—There are authorized  
18          to be appropriated to the Secretary such sums as  
19          necessary to carry out this section.

20          “(k) VOLUNTARY REPATRIATION DEFINED.—The  
21          term ‘voluntary repatriation’ means the free and voluntary  
22          return of an alien to the alien’s country of nationality (or  
23          in the case of an alien having no nationality, the country  
24          of the alien’s last habitual residence) in a safe and dig-  
25          nified manner, consistent with the obligations of the

1 United States under the Convention Relating to the Sta-  
2 tus of Refugees, done at Geneva July 28, 1952 (as made  
3 applicable by the 1967 Protocol Relating to the Status of  
4 Refugees, done at New York January 31, 1967 (19 UST  
5 6223)).”.

6 (b) CLERICAL AMENDMENT.—The table of contents  
7 of the Immigration and Nationality Act (8 U.S.C. 1101  
8 et seq.), as amended by section 143(b), is further amended  
9 by inserting after the item relating to section 240F the  
10 following:

“Sec. 240G. Voluntary repatriation.”.

11 **SEC. 145. IMMIGRATION EXAMINATIONS FEE ACCOUNT.**

12 Section 286 of the Immigration and Nationality Act  
13 (8 U.S.C. 1356) is amended—

14 (1) in subsection (m), by striking “collected.”  
15 and inserting “collected: *Provided further*, That such  
16 fees may not be set to recover any costs associated  
17 with the implementation of sections 235B and  
18 240D, are appropriated by Congress, and are not  
19 subject to the fees collected.”; and

20 (2) in subsection (n), by adding at the end the  
21 following: “Funds deposited in the ‘Immigration Ex-  
22 aminations Fee Account’ shall not be used to reim-  
23 burse any appropriation for expenses associated with  
24 the implementation of sections 235B and 240D.”.

1 **SEC. 146. BORDER REFORMS.**

2 (a) SPECIAL RULES FOR CONTIGUOUS CONTINENTAL  
3 LAND BORDERS.—

4 (1) IN GENERAL.—Chapter 4 of title II of the  
5 Immigration and Nationality Act (8 U.S.C. 1221 et  
6 seq.) is amended by adding at the end the following:

7 **“SEC. 244A. SPECIAL RULES FOR CONTIGUOUS CONTI-**  
8 **NENTAL LAND BORDERS.**

9 “(a) IN GENERAL.—An alien described in section 235  
10 or 235B who arrives by land from a contiguous conti-  
11 nental land border (whether or not at a designated port  
12 of arrival), absent unusual circumstances, shall be prompt-  
13 ly subjected to the mandatory provisions of such sections  
14 unless the Secretary of Homeland Security (referred to in  
15 this section as the ‘Secretary’) determines, on a case-by-  
16 case basis, that there is—

17 “(1) an exigent medical circumstance involving  
18 the alien that requires the alien’s physical presence  
19 in the United States;

20 “(2) a significant law enforcement or intel-  
21 ligence purpose warranting the alien’s presence in  
22 the United States;

23 “(3) an urgent humanitarian reason directly  
24 pertaining to the individual alien, according to spe-  
25 cific criteria determined by the Secretary;

1           “(4) a Tribal religious ceremony, cultural ex-  
2           change, celebration, subsistence use, or other cul-  
3           turally important purpose warranting the alien’s  
4           presence in the United States on Tribal land located  
5           at or near an international land border;

6           “(5) an accompanying alien whose presence in  
7           the United States is necessary for the alien who  
8           meets the criteria described in any of the paragraphs  
9           (1) through (4) to further the purposes of such pro-  
10          visions; or

11          “(6) an alien who, while in the United States,  
12          had an emergent personal or bona fide reason to  
13          travel temporarily abroad and received approval for  
14          Advance Parole from the Secretary.

15          “(b) RULES OF CONSTRUCTION.—Nothing in this  
16          section may be construed—

17               “(1) to preclude the execution of section  
18               235(a)(4) or 241(a)(5);

19               “(2) to expand or restrict the authority to grant  
20               parole under section 212(d)(5), including for aliens  
21               arriving at a port of entry by air or sea, other than  
22               an alien arriving by land at a contiguous continental  
23               land border for whom a special rule described in  
24               subsection (a) applies; or



1           “(3) to refer to or place an alien in removal  
2           proceedings pursuant to section 240, or in any other  
3           proceedings, if such referral is not otherwise author-  
4           ized under this Act.

5           “(c) TRANSITION RULES.—

6           “(1) MANDATORY PROCESSING.—Beginning on  
7           the date that is 90 days after the date of the enact-  
8           ment of this section, the Secretary shall require any  
9           alien described in subsection (a) who does not meet  
10          any of the criteria described in paragraphs (1)  
11          through (6) of that subsection to be processed in ac-  
12          cordance with section 235 or 235B, as applicable,  
13          unless such alien is subject to removal proceedings  
14          under subsection (b)(3).

15          “(2) PRE-CERTIFICATION REFERRALS AND  
16          PLACEMENTS.—Before the Comptroller General of  
17          the United States has certified that sections 235B  
18          and 240D are fully operational pursuant to section  
19          146(d) of the Border Act, the Secretary shall refer  
20          or place aliens described in subsection (a) in pro-  
21          ceedings under section 240 based upon operational  
22          considerations regarding the capacity of the Sec-  
23          retary to process aliens under section 235 or section  
24          235B, as applicable.

1           “(3) POST-CERTIFICATION REFERRALS AND  
2           PLACEMENTS.—After the Comptroller General  
3           makes the certification referred to in paragraph (2),  
4           the Secretary may only refer aliens described in sub-  
5           section (a) to, or place such aliens in, proceedings  
6           under section 235(b) or 235B, as applicable, unless  
7           such alien is subject to removal proceedings under  
8           subsection (b)(3).”.

9           (2) CLERICAL AMENDMENT.—The table of con-  
10          tents of the Immigration and Nationality Act (8  
11          U.S.C. 1101 et seq.) is amended by inserting after  
12          the item relating to section 244 the following:

“Sec. 244A. Special rules for contiguous continental land borders.”.

13          (b) MODIFICATION OF AUTHORITY TO ARREST, DE-  
14          TAIN, AND RELEASE ALIENS.—

15               (1) IN GENERAL.—Section 236(a)(2) of the Im-  
16               migration and Nationality Act (8 U.S.C. 1226(a)(2))  
17               is amended—

18                       (A) in the matter preceding subparagraph  
19                       (A), by striking “on”;

20                       (B) in subparagraph (A), by inserting  
21                       “on” before “bond”; and

22                       (C) by amending subparagraph (B) to read  
23                       as follows:

24                               “(B)(i) in the case of an alien encountered  
25                               in the interior, on conditional parole; or

1           “(ii) in the case of an alien encountered at  
2           the border—

3                   “(I) pursuant to the procedures under  
4                   235B; or

5                   “(II) on the alien’s own recognizance  
6                   with placement into removal proceedings  
7                   under 240; and”.

8           (2) EFFECTIVE DATE.—The amendments made  
9           by paragraph (1) shall take effect immediately after  
10          the Comptroller General of the United States cer-  
11          tifies, in accordance with subsection (d), that sec-  
12          tions 235B and 240D of the Immigration and Na-  
13          tionality Act, as added by sections 141 and 142, are  
14          fully operational.

15          (c) REPORTING REQUIREMENT.—

16               (1) IN GENERAL.—Section 236 of the Immigra-  
17          tion and Nationality Act (8 U.S.C. 1226) is amend-  
18          ed by adding at the end the following:

19                   “(f) SEMIANNUAL REPORT.—

20                       “(1) IN GENERAL.—Not later than 180 days  
21                       after the date on which the Comptroller General  
22                       makes the certification described in section 146(d)  
23                       of the Border Act, and every 180 days thereafter,  
24                       the Secretary of Homeland Security shall publish, on  
25                       a publicly accessible internet website in a

1       downloadable and searchable format, a report that  
2       describes each use of the authority of the Secretary  
3       under subsection (a)(2)(B)(ii)(II).

4               “(2) ELEMENTS.—Each report required by  
5       paragraph (1) shall include, for the applicable 180-  
6       day reporting period—

7                       “(A) the number of aliens released pursu-  
8                       ant to the authority of the Secretary of Home-  
9                       land Security under subsection (a)(2)(B)(ii)(II);

10                      “(B) with respect to each such release—

11                               “(i) the rationale;

12                               “(ii) the Border Patrol sector in  
13                               which the release occurred; and

14                               “(iii) the number of days between the  
15                               scheduled date of the protection determina-  
16                               tion and the date of release from physical  
17                               custody.

18               “(3) PRIVACY PROTECTION.—Each report pub-  
19       lished under paragraph (1)—

20                       “(A) shall comply with all applicable Fed-  
21                       eral privacy laws; and

22                       “(B) shall not disclose any information  
23                       contained in, or pertaining to, a protection de-  
24                       termination.”.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by paragraph (1) shall take effect immediately after  
3           the Comptroller General of the United States cer-  
4           tifies, in accordance with subsection (d), that sec-  
5           tions 235B and 240D of the Immigration and Na-  
6           tionality Act, as added by sections 141 and 142, are  
7           fully operational.

8           (d) CERTIFICATION PROCESS.—

9           (1) DEFINITIONS.—In this subsection:

10           (A) FULLY OPERATIONAL.—The term  
11           “fully operational” means the Secretary has the  
12           necessary resources, capabilities, and personnel  
13           to process all arriving aliens referred to in sec-  
14           tions 235B and 240D of the Immigration and  
15           Nationality Act, as added by sections 141 and  
16           142, within the timeframes required by such  
17           sections.

18           (B) REQUIRED PARTIES.—The term “re-  
19           quired parties” means—

- 20                   (i) the President;
- 21                   (ii) the Secretary;
- 22                   (iii) the Attorney General;
- 23                   (iv) the Director of the Office of Man-  
24                   agement and Budget;

1 (v) the Committee on Homeland Secu-  
2 rity and Governmental Affairs of the Sen-  
3 ate;

4 (vi) the Committee on the Judiciary of  
5 the Senate;

6 (vii) the Committee on Appropriations  
7 of the Senate;

8 (viii) the Committee on Homeland Se-  
9 curity of the House of Representatives;

10 (ix) the Committee on the Judiciary  
11 of the House of Representatives; and

12 (x) the Committee on Appropriations  
13 of the House of Representatives.

14 (2) REVIEW.—

15 (A) IN GENERAL.—Not later than 180  
16 days after the date of the enactment of this  
17 Act, the Comptroller General of the United  
18 States shall review the implementation of sec-  
19 tions 235B and 240D of the Immigration and  
20 Nationality Act, as added by sections 141 and  
21 142, to determine whether such sections are  
22 fully operational.

23 (B) REVIEW ELEMENTS.—In completing  
24 the review required under subparagraph (A),  
25 the Comptroller General shall assess, in com-

1           parison to the available resources, capabilities,  
2           and personnel on the date of the enactment of  
3           this Act, whether there are sufficient—

4                   (i) properly trained personnel, includ-  
5                   ing support personnel;

6                   (ii) real property assets and other re-  
7                   quired capabilities;

8                   (iii) information technology infrastruc-  
9                   ture;

10                  (iv) field manuals and guidance, regu-  
11                  lations, and policies;

12                  (v) other investments that the Comp-  
13                  troller General considers necessary; and

14                  (vi) asylum officers to effectively proc-  
15                  ess all aliens who are considered amenable  
16                  for processing under section 235(b), sec-  
17                  tion 235B, section 240, and section 240D  
18                  of the Immigration and Nationality Act.

19           (3) CERTIFICATION OF FULL IMPLEMENTA-  
20           TION.—If the Comptroller General determines, after  
21           completing the review required under paragraph (2),  
22           that sections 235B and 240D of the Immigration  
23           and Nationality Act are fully operational, the Comp-  
24           troller General shall immediately submit to the re-  
25           quired parties a certification of such determination.

1           (4) NONCERTIFICATION AND SUBSEQUENT RE-  
2           VIEWS.—If the Comptroller General determines,  
3           after completing the review required under para-  
4           graph (2), that such sections 235B and 240D are  
5           not fully operational, the Comptroller General  
6           shall—

7                   (A) notify the required parties of such de-  
8                   termination, including the reasons for such de-  
9                   termination;

10                   (B) conduct a subsequent review in accord-  
11                   ance with paragraph (2)(A) not later than 180  
12                   days after each previous review that concluded  
13                   that such sections 235B and 240D were not  
14                   fully operational; and

15                   (C) conduct a subsequent review not later  
16                   than 90 days after each time Congress appro-  
17                   priates additional funding to fully implement  
18                   such sections 235B and 240D.

19           (5) DETERMINATION OF THE SECRETARY.—Not  
20           later than 7 days after receiving a certification de-  
21           scribed in paragraph (3), the Secretary shall confirm  
22           or reject the certification of the Comptroller General.

23           (6) EFFECT OF REJECTION.—

24                   (A) NOTIFICATION.—If the Secretary re-  
25                   jects a certification of the of the Comptroller



1           General pursuant to paragraph (A), the Sec-  
2           retary shall immediately—

3                   (i) notify the President, the Comp-  
4                   troller General, and the congressional com-  
5                   mittees listed in paragraph (1) of such re-  
6                   jection; and

7                   (ii) provide such entities with a ra-  
8                   tionale for such rejection.

9           (B) SUBSEQUENT REVIEWS.—If the Comp-  
10           troller General receives a notification of rejec-  
11           tion from the Secretary pursuant to subpara-  
12           graph (A), the Comptroller General shall con-  
13           duct a subsequent review in accordance with  
14           paragraph (4)(B).

15 **SEC. 147. PROTECTION APPELLATE BOARD.**

16           (a) IN GENERAL.—Subtitle E of title IV of the  
17           Homeland Security Act of 2002 (6 U.S.C. 271 et seq.)  
18           is amended by adding at the end the following:

19 **“SEC. 463. PROTECTION APPELLATE BOARD.**

20           “(a) ESTABLISHMENT.—The Secretary shall estab-  
21           lish within the U.S. Citizenship and Immigration Services  
22           an appellate authority to conduct administrative appellate  
23           reviews of protection merits determinations made under  
24           section 240D of the Immigration and Nationality Act in

1 which the alien is denied relief or protection, to be known  
2 as the ‘Protection Appellate Board’.

3 “(b) COMPOSITION.—Each panel of the Protection  
4 Appellate Board shall be composed of 3 U.S. Citizenship  
5 and Immigration Services asylum officers (as defined in  
6 section 235(b)(1)(E) of the Immigration and Nationality  
7 Act (8 U.S.C. 1225(b)(1)(E))), assigned to the panel at  
8 random, who—

9 “(1) possess the necessary experience adjudicating  
10 asylum claims; and

11 “(2) are from diverse geographic regions.

12 “(c) DUTIES OF ASYLUM OFFICERS.—In conducting  
13 a review under section 240D(e) of the Immigration and  
14 Nationality Act, each asylum officer assigned to a panel  
15 of the Protection Appellate Board shall independently re-  
16 view the file of the alien concerned, including—

17 “(1) the record of the alien’s protection deter-  
18 mination (as defined in section 101(a) of the Immi-  
19 gration and Nationality Act (8 U.S.C. 1101(a))), as  
20 applicable;

21 “(2) the alien’s application for a protection  
22 merits interview (as defined in section 240D(l) of  
23 that Act);

24 “(3) a transcript of the alien’s protection merits  
25 interview;

1           “(4) the final record of the alien’s protection  
2 merits interview;

3           “(5) a sworn statement from the alien identi-  
4 fying new evidence or alleged error and any accom-  
5 panying information the alien or the alien’s legal  
6 representative considers important; and

7           “(6) any additional materials, information, or  
8 facts inserted into the record.

9           “(d) DECISIONS.—Any final determination made by  
10 a panel of the Protection Appellate Board shall be by ma-  
11 jority decision, independently submitted by each member  
12 of the panel.

13           “(e) EXCLUSIVE JURISDICTION.—The Protection Ap-  
14 pellate Board shall have exclusive jurisdiction to review  
15 appeals of negative protections merits determinations.

16           “(f) PROTECTIONS FOR DECISIONS BASED ON MER-  
17 ITS OF CASE.—The Director of U.S. Citizenship and Im-  
18 migration Services may not impose restrictions on an asy-  
19 lum officer’s ability to grant or deny relief or protection  
20 based on a numerical limitation.

21           “(g) REPORTS.—

22           “(1) IN GENERAL.—Not later than 1 year after  
23 the date of the enactment of this section, and annu-  
24 ally thereafter, the Secretary—

1           “(A) shall submit a report to the appro-  
2           priate committees of the Congress that in-  
3           cludes, for the preceding year—

4                   “(i) the number of petitions for review  
5                   submitted by aliens under section 240D(e)  
6                   of the Immigration and Nationality Act;

7                   “(ii) the number of appeals considered  
8                   by the Protection Appellate Board under  
9                   such section that resulted in a grant of re-  
10                  lief or protection;

11                  “(iii) the number of appeals consid-  
12                  ered by the Protection Appellate Board  
13                  under such section that resulted in a denial  
14                  of relief or protection;

15                  “(iv) the geographic regions in which  
16                  the members of the Protection Appellate  
17                  Board held their primary duty station;

18                  “(v) the tenure of service of the mem-  
19                  bers of the Protection Appellate Board;

20                  “(vi) a description of any anomalous  
21                  case outcome identified by the Secretary  
22                  and the resolution of any such case out-  
23                  come;

24                  “(vii) the number of unanimous deci-  
25                  sions by the Protection Appellate Board;

1           “(viii) an identification of the number  
2           of cases the Protection Appellate Board  
3           was unable to complete in the timelines  
4           specified under section 240D(e) of the Im-  
5           migration and Nationality Act; and

6           “(ix) a description of any steps taken  
7           to remediate any backlog identified under  
8           clause (viii), as applicable; and

9           “(B) in submitting each such report, shall  
10          protect all personally identifiable information of  
11          Federal employees and aliens who are subject to  
12          the reporting under this subsection.

13          “(2) APPROPRIATE COMMITTEES OF CONGRESS  
14          DEFINED.—In this subsection, the term ‘appropriate  
15          committees of Congress’ means—

16               “(A) the Committee on Appropriations of  
17               the Senate;

18               “(B) the Committee on the Judiciary of  
19               the Senate;

20               “(C) the Committee on Homeland Security  
21               and Governmental Affairs of the Senate;

22               “(D) the Committee on Appropriations of  
23               the House of Representatives;

24               “(E) the Committee on the Judiciary of  
25               the House of Representatives; and

1                   “(F) the Committee on Homeland Security  
2                   of the House of Representatives.”.

3           (b) CLERICAL AMENDMENT.—The table of contents  
4 of the Homeland Security Act of 2002 (6 U.S.C. 101 et  
5 seq.) is amended by inserting after the item relating to  
6 section 462 the following:

“Sec. 463. Protection Appellate Board.”.

7       **TITLE II—ASYLUM PROCESSING**  
8                                   **ENHANCEMENTS**

9       **SEC. 201. COMBINED SCREENINGS.**

10           Section 101(a) of the Immigration and Nationality  
11 Act (8 U.S.C. 1101(a)) is amended by adding at the end  
12 the following:

13           “(53) The term ‘protection determination’ means—

14                   “(A) a screening conducted pursuant to section  
15                   235(b)(1)(B)(v); or

16                   “(B) a screening to determine whether an alien  
17                   is eligible for—

18                           “(i) withholding of removal under section  
19                           241(b)(3); or

20                           “(ii) protection under the Convention  
21                           against Torture and Other Cruel, Inhuman or  
22                           Degrading Treatment or Punishment, done at  
23                           New York December 10, 1984, which includes  
24                           the regulations implementing any law enacted  
25                           pursuant to Article 3 of such convention.

1 “(54) The term ‘protection merits interview’ means  
2 an interview to determine whether an alien—

3 “(A) meets the definition of refugee under  
4 paragraph (42), in accordance with the terms and  
5 conditions under section 208;

6 “(B) is eligible for withholding of removal  
7 under section 241(b)(3); or

8 “(C) is eligible for protection under the Conven-  
9 tion against Torture and Other Cruel, Inhuman or  
10 Degrading Treatment or Punishment, done at New  
11 York December 10, 1984, which includes the regula-  
12 tions implementing any law enacted pursuant to Ar-  
13 ticle 3 of such convention.”.

14 **SEC. 202. CREDIBLE FEAR STANDARD AND ASYLUM BARS**

15 **AT SCREENING INTERVIEW.**

16 Section 235(b)(1)(B) of the Immigration and Nation-  
17 ality Act (8 U.S.C. 1225(b)(1)(B)) is amended—

18 (1) in clause (v), by striking “significant possi-  
19 bility” and inserting “reasonable possibility”; and

20 (2) by adding at the end, the following:

21 “(vi) ASYLUM EXCEPTIONS.—An asy-  
22 lum officer, during the credible fear screen-  
23 ing of an alien—

24 “(I) shall determine whether any  
25 of the asylum exceptions under section

1           208(b)(2) disqualify the alien from re-  
2           ceiving asylum; and

3                   “(II) may determine that the  
4           alien does not meet the definition of  
5           credible fear of persecution under  
6           clause (v) if any such exceptions  
7           apply, including whether any such ex-  
8           emptions to such disqualifying excep-  
9           tions may apply.”.

10 **SEC. 203. INTERNAL RELOCATION.**

11           (a) IN GENERAL.—Section 208(b)(2)(A) of the Im-  
12 migration and Nationality Act (8 U.S.C. 1158(b)(2)(A))  
13 is amended—

14                   (1) in clause (v), by striking “or” at the end;

15                   (2) in clause (vi), by striking the period at the  
16 end and inserting “; or”; and

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

18                           “(vii) there are reasonable grounds for  
19           concluding that the alien could avoid perse-  
20           cution by relocating to—

21                                   “(I) another location in the  
22           alien’s country of nationality; or

23                                   “(II) in the case of an alien hav-  
24           ing no nationality, another location in



1 the alien’s country of last habitual  
2 residence.”.

3 (b) INAPPLICABILITY.—Section 244(c)(2)(B)(ii) of  
4 the Immigration and Nationality Act (8 U.S.C.  
5 1254a(c)(2)(B)(ii)) is amended by inserting “clauses (i)  
6 through (vi) of” after “described in”.

7 **SEC. 204. ASYLUM OFFICER CLARIFICATION.**

8 Section 235(b)(1)(E) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

10 (1) in clause (i), by striking “comparable to”  
11 and all that follows and inserting “, including non-  
12 adversarial techniques;”;

13 (2) in clause (ii), by striking the period at the  
14 end and inserting “; and”; and

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

16 “(iii)(I) is an employee of U.S. Citi-  
17 zenship and Immigration Services; and

18 “(II) is not a law enforcement offi-  
19 cer.”.

20 **TITLE III—SECURING AMERICA**

21 **Subtitle A—Border Emergency**

22 **Authority**

23 **SEC. 301. BORDER EMERGENCY AUTHORITY.**

24 (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
25 gration and Nationality Act (8 U.S.C. 1221 et seq.), as

1 amended by section 146(a), is further amended by adding  
2 at the end the following:

3 **“SEC. 244B. BORDER EMERGENCY AUTHORITY.**

4 “(a) USE OF AUTHORITY.—

5 “(1) IN GENERAL.—In order to respond to ex-  
6 traordinary migration circumstances, there shall be  
7 available to the Secretary, notwithstanding any other  
8 provision of law, a border emergency authority.

9 “(2) EXCEPTIONS.—The border emergency au-  
10 thority shall not be activated with respect to any of  
11 the following:

12 “(A) A citizen or national of the United  
13 States.

14 “(B) An alien who is lawfully admitted for  
15 permanent residence.

16 “(C) An unaccompanied alien child.

17 “(D) An alien who an immigration officer  
18 determines, with the approval of a supervisory  
19 immigration officer, should be excepted from  
20 the border emergency authority based on the to-  
21 tality of the circumstances, including consider-  
22 ation of significant law enforcement, officer and  
23 public safety, humanitarian, and public health  
24 interests, or an alien who an immigration offi-  
25 cer determines, in consultation with U.S. Immi-

1           gration and Customs Enforcement, should be  
2           excepted from the border emergency authority  
3           due to operational considerations.

4           “(E) An alien who is determined to be a  
5           victim of a severe form of trafficking in persons  
6           (as defined in section 103 of the Trafficking  
7           Victims Protection Act of 2000 (22 U.S.C.  
8           7102)).

9           “(F) An alien who has a valid visa or other  
10          lawful permission to enter the United States,  
11          including—

12                 “(i) a member of the Armed Forces of  
13                 the United States and associated per-  
14                 sonnel, United States Government employ-  
15                 ees or contractors on orders abroad, or  
16                 United States Government employees or  
17                 contractors, and an accompanying family  
18                 member who is on orders or is a member  
19                 of the alien’s household, subject to re-  
20                 quired assurances;

21                 “(ii) an alien who holds a valid travel  
22                 document upon arrival at a port of entry;

23                 “(iii) an alien from a visa waiver pro-  
24                 gram country under section 217 who is not

1 otherwise subject to travel restrictions and  
2 who arrives at a port of entry; or

3 “(iv) an alien who presents at a port  
4 of entry pursuant to a process approved by  
5 the Secretary to allow for safe and orderly  
6 entry into the United States.

7 “(3) APPLICABILITY.—The border emergency  
8 authority shall only be activated as to aliens who are  
9 not subject to an exception under paragraph (2),  
10 and who are, after the authority is activated, within  
11 100 miles of the United States southwest land bor-  
12 der and within the 14-day period after entry.

13 “(b) BORDER EMERGENCY AUTHORITY DE-  
14 SCRIBED.—

15 “(1) IN GENERAL.—Whenever the border emer-  
16 gency authority is activated, the Secretary shall have  
17 the authority, in the Secretary’s sole and  
18 unreviewable discretion, to summarily remove from  
19 and prohibit, in whole or in part, entry into the  
20 United States of any alien identified in subsection  
21 (a)(3) who is subject to such authority in accordance  
22 with this subsection.

23 “(2) TERMS AND CONDITIONS.—

24 “(A) SUMMARY REMOVAL.—Notwith-  
25 standing any other provision of this Act, subject

1 to subparagraph (B), the Secretary shall issue  
2 a summary removal order and summarily re-  
3 move an alien to the country of which the alien  
4 is a subject, national, or citizen (or, in the case  
5 of an alien having no nationality, the country of  
6 the alien's last habitual residence), or in accord-  
7 ance with the processes established under sec-  
8 tion 241, unless the summary removal of the  
9 alien to such country would be prejudicial to  
10 the interests of the United States.

11 “(B) WITHHOLDING AND CONVENTION  
12 AGAINST TORTURE INTERVIEWS.—

13 “(i) IN GENERAL.—In the case of an  
14 alien subject to the border emergency au-  
15 thority who manifests a fear of persecution  
16 or torture with respect to a proposed coun-  
17 try of summary removal, an asylum officer  
18 (as defined in section 235(b)(1)(E)) shall  
19 conduct an interview, during which the  
20 asylum officer shall determine that, if such  
21 alien demonstrates during the interview  
22 that the alien has a reasonable possibility  
23 of persecution or torture, such alien shall  
24 be referred to or placed in proceedings

1 under section 240 or 240D, as appro-  
2 priate.

3 “(ii) SOLE MECHANISM TO REQUEST  
4 PROTECTION.—An interview under this  
5 subparagraph conducted by an asylum offi-  
6 cer shall be the sole mechanism by which  
7 an alien described in clause (i) may make  
8 a claim for protection under—

9 “(I) section 241(b)(3); and

10 “(II) the Convention Against  
11 Torture.

12 “(iii) ALIEN REFERRED FOR ADDI-  
13 TIONAL PROCEEDINGS.—In the case of an  
14 alien interviewed under clause (i) who dem-  
15 onstrates that the alien is eligible to apply  
16 for protection under section 241(b)(3) or  
17 the Convention Against Torture, the  
18 alien—

19 “(I) shall not be summarily re-  
20 moved; and

21 “(II) shall instead be processed  
22 under section 240 or 240D, as appro-  
23 priate.

24 “(iv) ADDITIONAL REVIEW.—

1                   “(I) OPPORTUNITY FOR SEC-  
2                   ONDARY REVIEW.—A supervisory asy-  
3                   lum officer shall review any case in  
4                   which the asylum officer who inter-  
5                   viewed the alien under the procedures  
6                   in clause (iii) finds that the alien is  
7                   not eligible for protection under sec-  
8                   tion 241(b)(3) or the Convention  
9                   Against Torture.

10                   “(II) VACATUR.—If, in con-  
11                   ducting such a secondary review, the  
12                   supervisory asylum officer determines  
13                   that the alien demonstrates eligibility  
14                   for such protection—

15                   “(aa) the supervisory asylum  
16                   officer shall vacate the previous  
17                   negative determination; and

18                   “(bb) the alien shall instead  
19                   be processed under section 240  
20                   or 240D.

21                   “(III) SUMMARY REMOVAL.—If  
22                   an alien does not seek such a sec-  
23                   ondary review, or if the supervisory  
24                   asylum officer finds that such alien is  
25                   not eligible for such protection, the

1 supervisory asylum officer shall order  
2 the alien summarily removed without  
3 further review.

4 “(3) ACTIVATIONS OF AUTHORITY.—

5 “(A) DISCRETIONARY ACTIVATION.—The  
6 Secretary may activate the border emergency  
7 authority if, during a period of 7 consecutive  
8 calendar days, there is an average of 4,000 or  
9 more aliens who are encountered each day.

10 “(B) MANDATORY ACTIVATION.—The Sec-  
11 retary shall activate the border emergency au-  
12 thority if—

13 “(i) during a period of 7 consecutive  
14 calendar days, there is an average of 5,000  
15 or more aliens who are encountered each  
16 day; or

17 “(ii) on any 1 calendar day, a com-  
18 bined total of 8,500 or more aliens are en-  
19 countered.

20 “(C) CALCULATION OF ACTIVATION.—

21 “(i) IN GENERAL.—For purposes of  
22 subparagraphs (A) and (B), the average  
23 for the applicable 7-day period shall be cal-  
24 culated using—

25 “(I) the sum of—



1                   “(aa) the number of encoun-  
2                   ters that occur between the  
3                   southwest land border ports of  
4                   entry of the United States;

5                   “(bb) the number of encoun-  
6                   ters that occur between the ports  
7                   of entry along the southern  
8                   coastal borders; and

9                   “(cc) the number of inad-  
10                  missible aliens encountered at a  
11                  southwest land border port of  
12                  entry as described in subsection  
13                  (a)(2)(F)(iv); divided by

14                  “(II) 7.

15                  “(ii) LIMITATION.—Aliens described  
16                  in subsection (a)(2)(C) from noncontiguous  
17                  countries shall not be included in calcu-  
18                  lating the sum of aliens encountered.

19                  “(4) LIMITATIONS.—

20                  “(A) IN GENERAL.—For purposes of para-  
21                  graph (3), the Secretary shall not activate the  
22                  border emergency authority—

23                  “(i) during the first calendar year  
24                  after the effective date, for more than 270  
25                  calendar days;

1                   “(ii) during the second calendar year  
2                   after the effective date, for more than 225  
3                   days; and

4                   “(iii) during the third calendar year,  
5                   for more than 180 calendar days.

6                   “(B) IMPLEMENTATION.—When the au-  
7                   thority is activated, the Secretary shall imple-  
8                   ment the authority within 24 hours of such ac-  
9                   tivation.

10                  “(5) SUSPENSIONS OF AUTHORITY.—The Sec-  
11                  retary shall suspend activation of the border emer-  
12                  gency authority, and the procedures under sub-  
13                  sections (a), (b), (c), and (d), not later than 14 cal-  
14                  endar days after the date on which the following oc-  
15                  curs, as applicable:

16                         “(A) In the case of an activation under  
17                         subparagraph (A) of paragraph (3), there is  
18                         during a period of 7 consecutive calendar days  
19                         an average of less than 75 percent of the en-  
20                         counter level used for activation.

21                         “(B) In the case of an activation under  
22                         clause (i) or (ii) of paragraph (3)(B), there is  
23                         during a period of 7 consecutive calendar days  
24                         an average of less than 75 percent of the en-  
25                         counter level described in such clause (i).

1           “(6) WAIVERS OF ACTIVATION OF AUTHOR-  
2           ITY.—

3           “(A) FIRST CALENDAR YEAR.—Notwith-  
4           standing paragraph (3), beginning the first cal-  
5           endar year after the effective date, the Sec-  
6           retary shall only have the authority to activate  
7           the border emergency authority for 270 cal-  
8           endar days during the calendar year, provided  
9           that—

10           “(i) for the first 90 calendar days in  
11           which any of the requirements of para-  
12           graph (3) have been satisfied, the Sec-  
13           retary shall be required to activate such  
14           authority;

15           “(ii) for the remaining 180 days that  
16           the authority is available in the calendar  
17           year, the Secretary may, in the sole,  
18           unreviewable, and exclusive discretion of  
19           the Secretary, determine whether to acti-  
20           vate the requirements of the border emer-  
21           gency authority under paragraph (3)(B)  
22           until the number of days that the authority  
23           has not been activated is equal to the num-  
24           ber of days left in the calendar year; and

1           “(iii) when the number of calendar  
2           days remaining in the calendar year is  
3           equal to the number of days that the au-  
4           thority has not been activated, the Sec-  
5           retary shall be required to activate the bor-  
6           der emergency authority for the remainder  
7           of the calendar year on days during which  
8           the requirements of paragraph (3)(B) have  
9           been satisfied.

10           “(B) SECOND CALENDAR YEAR.—Notwith-  
11           standing paragraph (3), beginning the second  
12           calendar year after the effective date, the Sec-  
13           retary shall only have the authority to activate  
14           the border emergency authority for 225 cal-  
15           endar days during the calendar year, provided  
16           that—

17           “(i) during the first 75 calendar days  
18           during which any of the requirements of  
19           paragraph (3) have been satisfied, the Sec-  
20           retary shall be required to activate the au-  
21           thority;

22           “(ii) for the remaining 150 days that  
23           the authority is available in the calendar  
24           year, the Secretary may, in the sole,  
25           unreviewable, and exclusive discretion of

1 the Secretary, determine whether to acti-  
2 vate the requirements of the border emer-  
3 gency authority under paragraph (3)(B)  
4 until the number of days that the authority  
5 has not been activated is equal to the num-  
6 ber of days left in the calendar year; and

7 “(iii) when the number of calendar  
8 days remaining in the calendar year is  
9 equal to the number of days that the au-  
10 thority has not been activated, the Sec-  
11 retary shall be required to activate the bor-  
12 der emergency authority for the remainder  
13 of the calendar year on days during which  
14 the requirements of paragraph (3)(B) have  
15 been satisfied.

16 “(C) THIRD CALENDAR YEAR.—Notwith-  
17 standing paragraph (3), beginning the third cal-  
18 endar year after the effective date, the Sec-  
19 retary shall only have the authority to activate  
20 the border emergency authority for 180 cal-  
21 endar days during the calendar year, provided  
22 that—

23 “(i) during the first 60 calendar days  
24 during which any of the requirements of  
25 paragraph (3) have been satisfied, the Sec-

1           retary shall be required to activate the au-  
2           thority;

3           “(ii) for the remaining 120 days that  
4           the authority is available in each calendar  
5           year, the Secretary may, in the sole,  
6           unreviewable, and exclusive discretion of  
7           the Secretary, determine whether to acti-  
8           vate the requirements of the border emer-  
9           gency authority under paragraph (3)(B)  
10          until the number of days that the authority  
11          has not been activated is equal to the num-  
12          ber of days left in the calendar year; and

13          “(iii) when the number of calendar  
14          days remaining in the calendar year is  
15          equal to the number of days that the au-  
16          thority has not been activated, the Sec-  
17          retary shall be required to activate the bor-  
18          der emergency authority for the remainder  
19          of the calendar year on days during which  
20          the requirements of paragraph (3)(B) have  
21          been satisfied.

22          “(7) EMERGENCY SUSPENSION OF AUTHOR-  
23          ITY.—

24          “(A) IN GENERAL.—If the President finds  
25          that it is in the national interest to temporarily

1 suspend the border emergency authority, the  
2 President may direct the Secretary to suspend  
3 use of the border emergency authority on an  
4 emergency basis.

5 “(B) DURATION.—In the case of a direc-  
6 tion from the President under subparagraph  
7 (A), the Secretary shall suspend the border  
8 emergency authority for not more than 45 cal-  
9 endar days within a calendar year, notwith-  
10 standing any limitations on the use of the au-  
11 thority described in this subsection.

12 “(c) CONTINUED ACCESS TO SOUTHWEST LAND  
13 BORDER PORTS OF ENTRY.—

14 “(1) IN GENERAL.—During any activation of  
15 the border emergency authority under subsection  
16 (b), the Secretary shall maintain the capacity to  
17 process, and continue processing, under section 235  
18 or 235B a minimum of 1,400 inadmissible aliens  
19 each calendar day cumulatively across all southwest  
20 land border ports of entry in a safe and orderly  
21 process developed by the Secretary.

22 “(2) SPECIAL RULES.—

23 “(A) UNACCOMPANIED ALIEN CHILDREN  
24 EXCEPTION.—For the purpose of calculating  
25 the number under paragraph (1), the Secretary

1 shall count all unaccompanied alien children,  
2 who are nationals of contiguous countries, proc-  
3 essed at southwest land border ports of entry,  
4 but shall not count such children who are na-  
5 tionals of noncontiguous countries.

6 “(B) TRANSITION RULES.—The provisions  
7 of section 244A(c) shall apply to this section.

8 “(d) BAR TO ADMISSION.—Any alien who, during a  
9 period of 365 days, has 2 or more summary removals pur-  
10 suant to the border emergency authority, shall be inadmis-  
11 sible for a period of 1 year beginning on the date of the  
12 alien’s most recent summary removal.

13 “(e) SAVINGS PROVISIONS.—

14 “(1) UNACCOMPANIED ALIEN CHILDREN.—  
15 Nothing in this section may be construed to interfere  
16 with the processing of unaccompanied alien children  
17 and such children are not subject to this section.

18 “(2) SETTLEMENT AGREEMENTS.—Nothing in  
19 this section may be construed to interfere with any  
20 rights or responsibilities established through a settle-  
21 ment agreement in effect before the date of the en-  
22 actment of this section.

23 “(3) RULE OF CONSTRUCTION.—For purposes  
24 of the Convention Relating to the Status of Refu-  
25 gees, done at Geneva July 28, 1952 (as made appli-



1 cable by the 1967 Protocol Relating to the Status of  
2 Refugees, done at New York January 31, 1967 (19  
3 UST 6223)), the Convention Against Torture, and  
4 any other applicable treaty, as applied to this sec-  
5 tion, the interview under this section shall occur only  
6 in the context of the border emergency authority.

7 “(f) JUDICIAL REVIEW.—Judicial review of any deci-  
8 sion or action applying the border emergency authority  
9 shall be governed only by this subsection as follows:

10 “(1) Notwithstanding any other provision of  
11 law, except as provided in paragraph (2), no court  
12 or judge shall have jurisdiction to review any cause  
13 or claim by an individual alien arising from the deci-  
14 sion to enter a summary removal order against such  
15 alien under this section, or removing such alien pur-  
16 suant to such summary removal order.

17 “(2) The United States District Court for the  
18 District of Columbia shall have sole and original ju-  
19 risdiction to hear challenges, whether constitutional  
20 or otherwise, to the validity of this section or any  
21 written policy directive, written policy guideline,  
22 written procedure, or the implementation thereof,  
23 issued by or under the authority of the Secretary to  
24 implement this section.

25 “(g) EFFECTIVE DATE.—

1           “(1) IN GENERAL.—This section shall take ef-  
2           fect on the day after the date of the enactment of  
3           this section.

4           “(2) 7-DAY PERIOD.—The initial activation of  
5           the authority under subparagraph (A) or (B)(i) of  
6           subsection (b)(3) shall take into account the average  
7           number of encounters during the preceding 7 con-  
8           secutive calendar days, as described in such subpara-  
9           graphs, which may include the 6 consecutive cal-  
10          endar days immediately preceding the date of the  
11          enactment of this section.

12          “(h) RULEMAKING.—

13                 “(1) IN GENERAL.—The Secretary may promul-  
14                 gate such regulations as are necessary to implement  
15                 this section in compliance with the requirements of  
16                 section 553 of title 5, United States Code.

17                 “(2) INITIAL IMPLEMENTATION.—Until the  
18                 date that is 180 days after the date of the enact-  
19                 ment of this section, the Secretary may issue any in-  
20                 terim final rules necessary to implement this section  
21                 without having to satisfy the requirements of section  
22                 553(b)(B) of title 5, United States Code, provided  
23                 that any such interim final rules shall include a 30-  
24                 day post promulgation notice and comment period  
25                 prior to finalization in the Federal Register.

1           “(3) REQUIREMENT.—All regulations promul-  
2           gated to implement this section beginning on the  
3           date that is 180 days after the date of the enact-  
4           ment of this section shall be issued pursuant to the  
5           requirements set forth in section 553 of title 5,  
6           United States Code.

7           “(i) DEFINITIONS.—In this section:

8           “(1) BORDER EMERGENCY AUTHORITY.—The  
9           term ‘border emergency authority’ means all au-  
10          thorities and procedures under this section.

11          “(2) CONVENTION AGAINST TORTURE.—The  
12          term ‘Convention Against Torture’ means the Con-  
13          vention against Torture and Other Cruel, Inhuman  
14          or Degrading Treatment or Punishment, done at  
15          New York December 10, 1984, and includes the reg-  
16          ulations implementing any law enacted pursuant to  
17          Article 3 of the Convention against Torture and  
18          Other Cruel, Inhuman or Degrading Treatment or  
19          Punishment, done at New York December 10, 1984.

20          “(3) ENCOUNTER.—With respect to an alien,  
21          the term ‘encounter’ means an alien who—

22                  “(A) is physically apprehended by U.S.  
23                  Customs and Border Protection personnel—

24                          “(i) within 100 miles of the southwest  
25                          land border of the United States during

1 the 14-day period immediately after entry  
2 between ports of entry; or

3 “(ii) at the southern coastal borders  
4 during the 14-day period immediately after  
5 entry between ports of entry; or

6 “(B) is seeking admission at a southwest  
7 land border port of entry and is determined to  
8 be inadmissible, including an alien who utilizes  
9 a process approved by the Secretary to allow for  
10 safe and orderly entry into the United States.

11 “(4) SECRETARY.—The term ‘Secretary’ means  
12 the Secretary of Homeland Security.

13 “(5) SOUTHERN COASTAL BORDERS.—The term  
14 ‘southern coastal borders’ means all maritime bor-  
15 ders in California, Texas, Louisiana, Mississippi,  
16 Alabama, and Florida.

17 “(6) UNACCOMPANIED ALIEN CHILD.—The  
18 term ‘unaccompanied alien child’ has the meaning  
19 given such term in section 462(g)(2) of the Home-  
20 land Security Act of 2002 (6 U.S.C. 279(g)(2)).

21 “(j) SUNSET.—This section—

22 “(1) shall take effect on the date of the enact-  
23 ment of this section; and

24 “(2) shall be repealed effective as of the date  
25 that is 3 years after such date of enactment.”.

1 (b) CLERICAL AMENDMENT.—The table of contents  
2 of the Immigration and Nationality Act (8 U.S.C. 1101  
3 et seq.), as amended by section 146(b), is further amended  
4 by inserting after the item relating to section 244A the  
5 following:

“Sec. 244B Border emergency authority.”.

6 **Subtitle B—Fulfilling Promises to**  
7 **Afghan Allies**

8 **SEC. 311. DEFINITIONS.**

9 In this subtitle:

10 (1) APPROPRIATE COMMITTEES OF CON-  
11 GRESS.—The term “appropriate committees of Con-  
12 gress” means—

13 (A) the Committee on the Judiciary of the  
14 Senate;

15 (B) the Committee on Foreign Relations of  
16 the Senate;

17 (C) the Committee on Armed Services of  
18 the Senate;

19 (D) the Committee on Appropriations of  
20 the Senate;

21 (E) the Committee on Homeland Security  
22 and Governmental Affairs of the Senate;

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

1 (G) the Committee on Foreign Affairs of  
2 the House of Representatives;

3 (H) the Committee on Armed Services of  
4 the House of Representatives;

5 (I) the Committee on Appropriations of the  
6 House of Representatives; and

7 (J) the Committee on Homeland Security  
8 of the House of Representatives.

9 (2) IMMIGRATION LAWS.—The term “immigra-  
10 tion laws” has the meaning given such term in sec-  
11 tion 101(a)(17) of the Immigration and Nationality  
12 Act (8 U.S.C. 1101(a)(17)).

13 (3) SECRETARY.—The term “Secretary” means  
14 the Secretary of Homeland Security.

15 (4) SPECIAL IMMIGRANT STATUS.—The term  
16 “special immigrant status” means special immigrant  
17 status provided under—

18 (A) the Afghan Allies Protection Act of  
19 2009 (8 U.S.C. 1101 note; Public Law 111–8);

20 (B) section 1059 of the National Defense  
21 Authorization Act for Fiscal Year 2006 (8  
22 U.S.C. 1101 note; Public Law 109–163); or

23 (C) subparagraph (N) of section  
24 101(a)(27) of the Immigration and Nationality

1 Act (8 U.S.C. 1101(a)(27)), as added by sec-  
2 tion 316(a).

3 (5) SPECIFIED APPLICATION.—The term “spec-  
4 ified application” means—

5 (A) a pending, documentarily complete ap-  
6 plication for special immigrant status; and

7 (B) a case in processing in the United  
8 States Refugee Admissions Program for an in-  
9 dividual who has received a Priority 1 or Pri-  
10 ority 2 referral to such program.

11 (6) UNITED STATES REFUGEE ADMISSIONS  
12 PROGRAM.—The term “United States Refuge Ad-  
13 missions Program” means the program to resettle  
14 refugees in the United States pursuant to the au-  
15 thorities provided in sections 101(a)(42), 207, and  
16 412 of the Immigration and Nationality Act (8  
17 U.S.C. 1101(a)(42), 1157, and 1522).

18 **SEC. 312. SUPPORT FOR AFGHAN ALLIES OUTSIDE THE**  
19 **UNITED STATES.**

20 (a) RESPONSE TO CONGRESSIONAL INQUIRIES.—The  
21 Secretary of State shall respond to inquiries by Members  
22 of Congress regarding the status of a specified application  
23 submitted by, or on behalf of, a national of Afghanistan,  
24 including any information that has been provided to the

1 applicant, in accordance with section 222(f) of the Immi-  
2 gration and Nationality Act (8 U.S.C. 1202(f)).

3 (b) OFFICE IN LIEU OF EMBASSY.—During the pe-  
4 riod in which there is no operational United States em-  
5 bassy in Afghanistan, the Secretary of State shall des-  
6 ignate an appropriate office within the Department of  
7 State—

8 (1) to review specified applications submitted by  
9 nationals of Afghanistan residing in Afghanistan, in-  
10 cluding by conducting any required interviews;

11 (2) to issue visas or other travel documents to  
12 such nationals, in accordance with the immigration  
13 laws;

14 (3) to provide services to such nationals, to the  
15 greatest extent practicable, that would normally be  
16 provided by an embassy; and

17 (4) to carry out any other function the Sec-  
18 retary of State considers necessary.

19 **SEC. 313. CONDITIONAL PERMANENT RESIDENT STATUS**  
20 **FOR ELIGIBLE INDIVIDUALS.**

21 (a) DEFINITIONS.—In this section:

22 (1) CONDITIONAL PERMANENT RESIDENT STA-  
23 TUS.—The term “conditional permanent resident  
24 status” means conditional permanent resident status  
25 under section 216 and 216A of the Immigration and



1 Nationality Act (8 U.S.C. 1186a, 1186b), subject to  
2 the provisions of this section.

3 (2) ELIGIBLE INDIVIDUAL.—The term “eligible  
4 individual” means an alien who—

5 (A) is present in the United States;

6 (B) is a citizen or national of Afghanistan  
7 or, in the case of an alien having no nationality,  
8 is a person who last habitually resided in Af-  
9 ghanistan;

10 (C) has not been granted permanent resi-  
11 dent status;

12 (D)(i) was inspected and admitted to the  
13 United States on or before the date of the en-  
14 actment of this Act; or

15 (ii) was paroled into the United States  
16 during the period beginning on July 30, 2021,  
17 and ending on the date of the enactment of this  
18 Act, provided that such parole has not been ter-  
19 minated by the Secretary upon written notice;  
20 and

21 (E) is admissible to the United States as  
22 an immigrant under the immigration laws, in-  
23 cluding eligibility for waivers of grounds of in-  
24 admissibility to the extent provided by the im-

1 migration laws and subject to the terms of sub-  
2 section (c) of this section.

3 (b) CONDITIONAL PERMANENT RESIDENT STATUS  
4 FOR ELIGIBLE INDIVIDUALS.—

5 (1) ADJUSTMENT OF STATUS TO CONDITIONAL  
6 PERMANENT RESIDENT STATUS.—Beginning on the  
7 date of the enactment of this Act, the Secretary  
8 may—

9 (A) adjust the status of each eligible indi-  
10 vidual to that of an alien lawfully admitted for  
11 permanent residence status, subject to the pro-  
12 cedures established by the Secretary to deter-  
13 mine eligibility for conditional permanent resi-  
14 dent status; and

15 (B) create for each eligible individual a  
16 record of admission to such status as of the  
17 date on which the eligible individual was ini-  
18 tially inspected and admitted or paroled into  
19 the United States, or July 30, 2021, whichever  
20 is later,

21 unless the Secretary determines, on a case-by-  
22 case basis, that such individual is subject to any  
23 ground of inadmissibility under section 212 (other  
24 than subsection (a)(4)) of the Immigration and Na-  
25 tionality Act (8 U.S.C. 1182) and is not eligible for

1 a waiver of such grounds of inadmissibility as pro-  
2 vided by this subtitle or by the immigration laws.

3 (2) **CONDITIONAL BASIS.**—An individual who  
4 obtains lawful permanent resident status under this  
5 section shall be considered, at the time of obtaining  
6 the status of an alien lawfully admitted for perma-  
7 nent residence, to have obtained such status on a  
8 conditional basis subject to the provisions of this  
9 section.

10 (c) **CONDITIONAL PERMANENT RESIDENT STATUS**  
11 **DESCRIBED.**—

12 (1) **ASSESSMENT.**—

13 (A) **IN GENERAL.**—Before granting condi-  
14 tional permanent resident status to an eligible  
15 individual under subsection (b)(1), the Sec-  
16 retary shall conduct an assessment with respect  
17 to the eligible individual, which shall be equiva-  
18 lent in rigor to the assessment conducted with  
19 respect to refugees admitted to the United  
20 States through the United States Refugee Ad-  
21 missions Program, for the purpose of deter-  
22 mining whether the eligible individual is subject  
23 to any ground of inadmissibility under section  
24 212 (other than subsection (a)(4)) of the Immi-  
25 gration and Nationality Act (8 U.S.C. 1182).

1 (B) CONSULTATION.—In conducting an as-  
2 sessment under subparagraph (A), the Sec-  
3 retary may consult with the head of any other  
4 relevant agency and review the holdings of any  
5 such agency.

6 (2) REMOVAL OF CONDITIONS.—

7 (A) IN GENERAL.—Not earlier than the  
8 date described in subparagraph (B), the Sec-  
9 retary may remove the conditional basis of the  
10 status of an individual granted conditional per-  
11 manent resident status under this section un-  
12 less the Secretary determines, on a case-by-case  
13 basis, that such individual is subject to any  
14 ground of inadmissibility under paragraph (2)  
15 or (3) of section 212(a) of the Immigration and  
16 Nationality Act (8 U.S.C. 1182(a)), and is not  
17 eligible for a waiver of such grounds of inadmis-  
18 sibility as provided by this subtitle or by the im-  
19 migration laws.

20 (B) DATE DESCRIBED.—The date de-  
21 scribed in this subparagraph is the earlier of—

22 (i) the date that is 4 years after the  
23 date on which the individual was admitted  
24 or paroled into the United States; or

25 (ii) July 1, 2027.

1 (C) WAIVER.—

2 (i) IN GENERAL.—Except as provided  
3 in clause (ii), with respect to an eligible in-  
4 dividual, the Secretary may waive the ap-  
5 plication of the grounds of inadmissibility  
6 under 212(a) of the Immigration and Na-  
7 tionality Act (8 U.S.C. 1182(a)) for hu-  
8 manitarian purposes or to ensure family  
9 unity.

10 (ii) EXCEPTIONS.—The Secretary may  
11 not waive under clause (i) the application  
12 of subparagraphs (C) through (E) and (G)  
13 through (H) of paragraph (2), or para-  
14 graph (3), of section 212(a) of the Immi-  
15 gration and Nationality Act (8 U.S.C.  
16 1182(a)).

17 (iii) RULE OF CONSTRUCTION.—Noth-  
18 ing in this subparagraph may be construed  
19 to expand or limit any other waiver author-  
20 ity applicable under the immigration laws  
21 to an applicant for adjustment of status.

22 (D) TIMELINE.—Not later than 180 days  
23 after the date described in subparagraph (B),  
24 the Secretary shall endeavor to remove condi-  
25 tions as to all individuals granted conditional

1 permanent resident status under this section  
2 who are eligible for removal of conditions.

3 (3) TREATMENT OF CONDITIONAL BASIS OF  
4 STATUS PERIOD FOR PURPOSES OF NATURALIZA-  
5 TION.—An individual in conditional permanent resi-  
6 dent status under this section, or who otherwise  
7 meets the requirements under (a)(1) of this section,  
8 shall be considered—

9 (A) to have been admitted to the United  
10 States as an alien lawfully admitted for perma-  
11 nent residence; and

12 (B) to be present in the United States as  
13 an alien lawfully admitted to the United States  
14 for permanent residence, provided that, no alien  
15 shall be naturalized unless the alien's conditions  
16 have been removed under this section.

17 (d) TERMINATION OF CONDITIONAL PERMANENT  
18 RESIDENT STATUS.—

19 (1) IN GENERAL.—Conditional permanent resi-  
20 dent status shall terminate on, as applicable—

21 (A) the date on which the Secretary re-  
22 moves the conditions pursuant to subsection  
23 (c)(2), on which date the alien shall be lawfully  
24 admitted for permanent residence without con-  
25 ditions;

1           (B) the date on which the Secretary deter-  
2           mines that the alien was not an eligible indi-  
3           vidual under subsection (a)(2) as of the date  
4           that such conditional permanent resident status  
5           was granted, on which date of the Secretary's  
6           determination the alien shall no longer be an  
7           alien lawfully admitted for permanent residence;  
8           or

9           (C) the date on which the Secretary deter-  
10          mines pursuant to subsection (c)(2) that the  
11          alien is not eligible for removal of conditions, on  
12          which date the alien shall no longer be an alien  
13          lawfully admitted for permanent residence.

14          (2) NOTIFICATION.—If the Secretary termi-  
15          nates status under this subsection, the Secretary  
16          shall so notify the individual in writing and state the  
17          reasons for the termination.

18          (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
19          tion shall be construed to limit the authority of the Sec-  
20          retary at any time to place in removal proceedings under  
21          section 240 of the Immigration and Nationality Act (8  
22          U.S.C. 1229a) any alien who has conditional permanent  
23          resident status under this section, if the alien is deportable  
24          under section 237 of such Act (8 U.S.C. 1227) under a

1 ground of deportability applicable to an alien who has been  
2 lawfully admitted for permanent residence.

3 (f) PAROLE EXPIRATION TOLLED.—The expiration  
4 date of a period of parole shall not apply to an individual  
5 under consideration for conditional permanent resident  
6 status under this section, until such time as the Secretary  
7 has determined whether to issue conditional permanent  
8 resident status.

9 (g) PERIODIC NONADVERSARIAL MEETINGS.—

10 (1) IN GENERAL.—Not later than 180 days  
11 after the date on which an individual is conferred  
12 conditional permanent resident status under this  
13 section, and periodically thereafter, the Office of  
14 Refugee Resettlement shall make available opportu-  
15 nities for the individual to participate in a nonadver-  
16 sarial meeting, during which an official of the Office  
17 of Refugee Resettlement (or an agency funded by  
18 the Office) shall—

19 (A) on request by the individual, assist the  
20 individual in a referral or application for appli-  
21 cable benefits administered by the Department  
22 of Health and Human Services and completing  
23 any applicable paperwork; and



1           (B) answer any questions regarding eligi-  
2           bility for other benefits administered by the  
3           United States Government.

4           (2) NOTIFICATION OF REQUIREMENTS.—Not  
5           later than 7 days before the date on which a meeting  
6           under paragraph (1) is scheduled to occur, the Sec-  
7           retary of Health and Human Services shall provide  
8           notice to the individual that includes the date of the  
9           scheduled meeting and a description of the process  
10          for rescheduling the meeting.

11          (3) CONDUCT OF MEETING.—The Secretary of  
12          Health and Human Services shall implement prac-  
13          tices to ensure that—

14                (A) meetings under paragraph (1) are con-  
15                ducted in a nonadversarial manner; and

16                (B) interpretation and translation services  
17                are provided to individuals granted conditional  
18                permanent resident status under this section  
19                who have limited English proficiency.

20          (4) RULES OF CONSTRUCTION.—Nothing in  
21          this subsection shall be construed—

22                (A) to prevent an individual from electing  
23                to have counsel present during a meeting under  
24                paragraph (1); or

1 (B) in the event that an individual declines  
2 to participate in such a meeting, to affect the  
3 individual's conditional permanent resident sta-  
4 tus under this section or eligibility to have con-  
5 ditions removed in accordance with this section.

6 (h) CONSIDERATION.—Except with respect to an ap-  
7 plication for naturalization and the benefits described in  
8 subsection (p), an individual in conditional permanent  
9 resident status under this section shall be considered to  
10 be an alien lawfully admitted for permanent residence for  
11 purposes of the adjudication of an application or petition  
12 for a benefit or the receipt of a benefit.

13 (i) NOTIFICATION OF REQUIREMENTS.—Not later  
14 than 90 days after the date on which the status of an  
15 individual is adjusted to that of conditional permanent  
16 resident status under this section, the Secretary shall pro-  
17 vide notice to such individual with respect to the provisions  
18 of this section, including subsection (c)(1) (relating to the  
19 conduct of assessments) and subsection (g) (relating to  
20 periodic nonadversarial meetings).

21 (j) APPLICATION FOR NATURALIZATION.—The Sec-  
22 retary shall establish procedures whereby an individual  
23 who would otherwise be eligible to apply for naturalization  
24 but for having conditional permanent resident status, may

1 be considered for naturalization coincident with removal  
2 of conditions under subsection (c)(2).

3 (k) ADJUSTMENT OF STATUS DATE.—

4 (1) IN GENERAL.—An alien described in para-  
5 graph (2) shall be regarded as lawfully admitted for  
6 permanent residence as of the date the alien was ini-  
7 tially inspected and admitted or paroled into the  
8 United States, or July 30, 2021, whichever is later.

9 (2) ALIEN DESCRIBED.—An alien described in  
10 this paragraph is an alien who—

11 (A) is described in subparagraphs (A), (B),  
12 and (D) of subsection (a)(2), and whose status  
13 was adjusted to that of an alien lawfully admit-  
14 ted for permanent residence on or after July  
15 30, 2021, but on or before the date of the en-  
16 actment of this Act; or

17 (B) is an eligible individual whose status is  
18 then adjusted to that of an alien lawfully admit-  
19 ted for permanent residence after the date of  
20 the enactment of this Act under any provision  
21 of the immigration laws other than this section.

22 (l) PARENTS AND LEGAL GUARDIANS OF UNACCOM-  
23 PANIED CHILDREN.—A parent or legal guardian of an eli-  
24 gible individual shall be eligible to obtain status as an alien

1 lawfully admitted for permanent residence on a conditional  
2 basis if—

3 (1) the eligible individual—

4 (A) was under 18 years of age on the date  
5 on which the eligible individual was granted  
6 conditional permanent resident status under  
7 this section; and

8 (B) was not accompanied by at least one  
9 parent or guardian on the date the eligible indi-  
10 vidual was admitted or paroled into the United  
11 States; and

12 (2) such parent or legal guardian was admitted  
13 or paroled into the United States after the date re-  
14 ferred to in paragraph (1)(B).

15 (m) GUIDANCE.—

16 (1) INTERIM GUIDANCE.—

17 (A) IN GENERAL.—Not later than 120  
18 days after the date of the enactment of this  
19 Act, the Secretary shall issue guidance imple-  
20 menting this section.

21 (B) PUBLICATION.—Notwithstanding sec-  
22 tion 553 of title 5, United States Code, guid-  
23 ance issued pursuant to subparagraph (A)—

1 (i) may be published on the internet  
2 website of the Department of Homeland  
3 Security; and

4 (ii) shall be effective on an interim  
5 basis immediately upon such publication  
6 but may be subject to change and revision  
7 after notice and an opportunity for public  
8 comment.

9 (2) FINAL GUIDANCE.—

10 (A) IN GENERAL.—Not later than 180  
11 days after the date of issuance of guidance  
12 under paragraph (1), the Secretary shall final-  
13 ize the guidance implementing this section.

14 (B) EXEMPTION FROM THE ADMINISTRA-  
15 TIVE PROCEDURE ACT.—Chapter 5 of title 5,  
16 United States Code (commonly known as the  
17 “Administrative Procedure Act”), or any other  
18 law relating to rulemaking or information col-  
19 lection, shall not apply to the guidance issued  
20 under this paragraph.

21 (n) ASYLUM CLAIMS.—

22 (1) IN GENERAL.—With respect to the adju-  
23 dication of an application for asylum submitted by  
24 an eligible individual, section 2502(c) of the Extend-  
25 ing Government Funding and Delivering Emergency

1 Assistance Act (8 U.S.C. 1101 note; Public Law  
2 117–43) shall not apply.

3 (2) RULE OF CONSTRUCTION.—Nothing in this  
4 section may be construed to prohibit an eligible indi-  
5 vidual from seeking or receiving asylum under sec-  
6 tion 208 of the Immigration and Nationality Act (8  
7 U.S.C. 1158).

8 (o) PROHIBITION ON FEES.—The Secretary may not  
9 charge a fee to any eligible individual in connection with  
10 the initial issuance under this section of—

11 (1) a document evidencing status as an alien  
12 lawfully admitted for permanent residence or condi-  
13 tional permanent resident status; or

14 (2) an employment authorization document.

15 (p) ELIGIBILITY FOR BENEFITS.—

16 (1) IN GENERAL.—Notwithstanding any other  
17 provision of law—

18 (A) an individual described in subsection  
19 (a) of section 2502 of the Afghanistan Supple-  
20 mental Appropriations Act, 2022 (8 U.S.C.  
21 1101 note; Public Law 117–43) shall retain his  
22 or her eligibility for the benefits and services  
23 described in subsection (b) of such section if the  
24 individual has a pending application, or is

1 granted adjustment of status, under this sec-  
2 tion; and

3 (B) such benefits and services shall remain  
4 available to the individual to the same extent  
5 and for the same periods of time as such bene-  
6 fits and services are otherwise available to refu-  
7 gees who acquire such status.

8 (2) EXCEPTION FROM 5-YEAR LIMITED ELIGI-  
9 BILITY FOR MEANS-TESTED PUBLIC BENEFITS.—  
10 Section 403(b)(1) of the Personal Responsibility and  
11 Work Opportunity Reconciliation Act of 1996 (8  
12 U.S.C. 1613(b)(1)) is amended by adding at the end  
13 the following:

14 “(F) An alien whose status is adjusted  
15 under section 313 of the Border Act to that of  
16 an alien lawfully admitted for permanent resi-  
17 dence or to that of an alien lawfully admitted  
18 for permanent residence on a conditional  
19 basis.”.

20 (q) RULE OF CONSTRUCTION.—Nothing in this sec-  
21 tion may be construed to preclude an eligible individual  
22 from applying for or receiving any immigration benefit to  
23 which the individual is otherwise entitled.

24 (r) EXEMPTION FROM NUMERICAL LIMITATIONS.—

1           (1) IN GENERAL.—Aliens granted conditional  
2 permanent resident status or lawful permanent resi-  
3 dent status under this section shall not be subject to  
4 the numerical limitations under sections 201, 202,  
5 and 203 of the Immigration and Nationality Act (8  
6 U.S.C. 1151, 1152, and 1153).

7           (2) SPOUSE AND CHILDREN BENEFICIARIES.—  
8 A spouse or child who is the beneficiary of an immi-  
9 grant petition under section 204 of the Immigration  
10 and Nationality Act (8 U.S.C. 1154) filed by an  
11 alien who has been granted conditional permanent  
12 resident status or lawful permanent resident status  
13 under this section, seeking classification of the  
14 spouse or child under section 203(a)(2)(A) of that  
15 Act (8 U.S.C. 1153(a)(2)(A)) shall not be subject to  
16 the numerical limitations under sections 201, 202,  
17 and 203 of the Immigration and Nationality Act (8  
18 U.S.C. 1151, 1152, and 1153).

19           (s) EFFECT ON OTHER APPLICATIONS.—Notwith-  
20 standing any other provision of law, in the interest of effi-  
21 ciency, the Secretary may pause consideration of any ap-  
22 plication or request for an immigration benefit pending  
23 adjudication so as to prioritize an application for adjust-  
24 ment of status to an alien lawfully admitted for permanent  
25 residence under this section.



1 (t) AUTHORIZATION FOR APPROPRIATIONS.—There  
2 is authorized to be appropriated to the Attorney General,  
3 the Secretary of Health and Human Services, the Sec-  
4 retary, and the Secretary of State such sums as are nec-  
5 essary to carry out this section.

6 **SEC. 314. REFUGEE PROCESSES FOR CERTAIN AT-RISK AF-**  
7 **GHAN ALLIES.**

8 (a) DEFINITION OF AFGHAN ALLY.—

9 (1) IN GENERAL.—In this section, the term  
10 “Afghan ally” means an alien who is a citizen or na-  
11 tional of Afghanistan, or in the case of an alien hav-  
12 ing no nationality, an alien who last habitually re-  
13 sided in Afghanistan, who—

14 (A) was—

15 (i) a member of—

16 (I) the special operations forces  
17 of the Afghanistan National Defense  
18 and Security Forces;

19 (II) the Afghanistan National  
20 Army Special Operations Command;

21 (III) the Afghan Air Force; or

22 (IV) the Special Mission Wing of  
23 Afghanistan;

- 1 (ii) a female member of any other en-  
2 tity of the Afghanistan National Defense  
3 and Security Forces, including—
- 4 (I) a cadet or instructor at the  
5 Afghanistan National Defense Univer-  
6 sity; and
- 7 (II) a civilian employee of the  
8 Ministry of Defense or the Ministry of  
9 Interior Affairs;
- 10 (iii) an individual associated with  
11 former Afghan military and police human  
12 intelligence activities, including operators  
13 and Department of Defense sources;
- 14 (iv) an individual associated with  
15 former Afghan military counterintelligence,  
16 counterterrorism, or counternarcotics;
- 17 (v) an individual associated with the  
18 former Afghan Ministry of Defense, Min-  
19 istry of Interior Affairs, or court system,  
20 and who was involved in the investigation,  
21 prosecution or detention of combatants or  
22 members of the Taliban or criminal net-  
23 works affiliated with the Taliban; or
- 24 (vi) a senior military officer, senior  
25 enlisted personnel, or civilian official who

1           served on the staff of the former Ministry  
2           of Defense or the former Ministry of Inte-  
3           rior Affairs of Afghanistan; or

4           (B) provided service to an entity or organi-  
5           zation described in subparagraph (A) for not  
6           less than 1 year during the period beginning on  
7           December 22, 2001, and ending on September  
8           1, 2021, and did so in support of the United  
9           States mission in Afghanistan.

10          (2) INCLUSIONS.—For purposes of this section,  
11          the Afghanistan National Defense and Security  
12          Forces includes members of the security forces  
13          under the Ministry of Defense and the Ministry of  
14          Interior Affairs of the Islamic Republic of Afghani-  
15          stan, including the Afghanistan National Army, the  
16          Afghan Air Force, the Afghanistan National Police,  
17          and any other entity designated by the Secretary of  
18          Defense as part of the Afghanistan National De-  
19          fense and Security Forces during the relevant period  
20          of service of the applicant concerned.

21          (b) REFUGEE STATUS FOR AFGHAN ALLIES.—

22          (1) DESIGNATION AS REFUGEES OF SPECIAL  
23          HUMANITARIAN CONCERN.—Afghan allies shall be  
24          considered refugees of special humanitarian concern  
25          under section 207 of the Immigration and Nation-

1 ality Act (8 U.S.C. 1157), until the later of 10 years  
2 after the date of enactment of this Act or upon de-  
3 termination by the Secretary of State, in consulta-  
4 tion with the Secretary of Defense and the Sec-  
5 retary, that such designation is no longer in the in-  
6 terest of the United States.

7 (2) THIRD COUNTRY PRESENCE NOT RE-  
8 QUIRED.—Notwithstanding section 101(a)(42) of the  
9 Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(42)), the Secretary of State and the Sec-  
11 retary shall, to the greatest extent possible, conduct  
12 remote refugee processing for an Afghan ally located  
13 in Afghanistan.

14 (c) AFGHAN ALLIES REFERRAL PROGRAM.—

15 (1) IN GENERAL.—Not later than 180 days  
16 after the date of the enactment of this Act—

17 (A) the Secretary of Defense, in consulta-  
18 tion with the Secretary of State, shall establish  
19 a process by which an individual may apply to  
20 the Secretary of Defense for classification as an  
21 Afghan ally and request a referral to the United  
22 States Refugee Admissions Program; and

23 (B) the head of any appropriate depart-  
24 ment or agency that conducted operations in  
25 Afghanistan during the period beginning on De-

1           cember 22, 2001, and ending on September 1,  
2           2021, in consultation with the Secretary of  
3           State, may establish a process by which an indi-  
4           vidual may apply to the head of the appropriate  
5           department or agency for classification as an  
6           Afghan ally and request a referral to the United  
7           States Refugee Admissions Program.

8           (2) APPLICATION SYSTEM.—

9           (A) IN GENERAL.—The process established  
10          under paragraph (1) shall—

11                 (i) include the development and main-  
12                 tenance of a secure online portal through  
13                 which applicants may provide information  
14                 verifying their status as Afghan allies and  
15                 upload supporting documentation; and

16                 (ii) allow—

17                         (I) an applicant to submit his or  
18                         her own application;

19                         (II) a designee of an applicant to  
20                         submit an application on behalf of the  
21                         applicant; and

22                         (III) in the case of an applicant  
23                         who is outside the United States, the  
24                         submission of an application regard-  
25                         less of where the applicant is located.

1                   (B) USE BY OTHER AGENCIES.—The Sec-  
2                   retary of Defense may enter into arrangements  
3                   with the head of any other appropriate depart-  
4                   ment or agency so as to allow the application  
5                   system established under subparagraph (A) to  
6                   be used by such department or agency.

7                   (3) REVIEW PROCESS.—As soon as practicable  
8                   after receiving a request for classification and refer-  
9                   ral described in paragraph (1), the head of the ap-  
10                  propriate department or agency shall—

11                  (A) review—

12                   (i) the service record of the applicant,  
13                   if available;

14                   (ii) if the applicant provides a service  
15                   record or other supporting documentation,  
16                   any information that helps verify the serv-  
17                   ice record concerned, including information  
18                   or an attestation provided by any current  
19                   or former official of the department or  
20                   agency who has personal knowledge of the  
21                   eligibility of the applicant for such classi-  
22                   fication and referral; and

23                   (iii) the data holdings of the depart-  
24                   ment or agency and other cooperating  
25                   interagency partners, including biographic

1 and biometric records, iris scans, finger-  
2 prints, voice biometric information, hand  
3 geometry biometrics, other identifiable in-  
4 formation, and any other information re-  
5 lated to the applicant, including relevant  
6 derogatory information; and

7 (B)(i) in a case in which the head of the  
8 department or agency determines that the ap-  
9 plicant is an Afghan ally without significant de-  
10 rogatory information, refer the Afghan ally to  
11 the United States Refugee Admissions Program  
12 as a refugee; and

13 (ii) include with such referral—

14 (I) any service record concerned,  
15 if available;

16 (II) if the applicant provides a  
17 service record, any information that  
18 helps verify the service record con-  
19 cerned; and

20 (III) any biometrics for the appli-  
21 cant.

22 (4) REVIEW PROCESS FOR DENIAL OF REQUEST  
23 FOR REFERRAL.—

24 (A) IN GENERAL.—In the case of an appli-  
25 cant with respect to whom the head of the ap-

1           appropriate department or agency denies a re-  
2           quest for classification and referral based on a  
3           determination that the applicant is not an Af-  
4           ghan ally or based on derogatory information—

5                   (i) the head of the department or  
6                   agency shall provide the applicant with a  
7                   written notice of the denial that provides,  
8                   to the maximum extent practicable, a de-  
9                   scription of the basis for the denial, includ-  
10                  ing the facts and inferences, or evidentiary  
11                  gaps, underlying the individual determina-  
12                  tion; and

13                  (ii) the applicant shall be provided an  
14                  opportunity to submit not more than 1  
15                  written appeal to the head of the depart-  
16                  ment or agency for each such denial.

17           (B) DEADLINE FOR APPEAL.—An appeal  
18           under clause (ii) of subparagraph (A) shall be  
19           submitted—

20                   (i) not more than 120 days after the  
21                   date on which the applicant concerned re-  
22                   ceives notice under clause (i) of that sub-  
23                   paragraph; or



1 (ii) on any date thereafter, at the dis-  
2 cretion of the head of the appropriate de-  
3 partment or agency.

4 (C) REQUEST TO REOPEN.—

5 (i) IN GENERAL.—An applicant who  
6 receives a denial under subparagraph (A)  
7 may submit a request to reopen a request  
8 for classification and referral under the  
9 process established under paragraph (1) so  
10 that the applicant may provide additional  
11 information, clarify existing information,  
12 or explain any unfavorable information.

13 (ii) LIMITATION.—After considering 1  
14 such request to reopen from an applicant,  
15 the head of the appropriate department or  
16 agency may deny subsequent requests to  
17 reopen submitted by the same applicant.

18 (5) FORM AND CONTENT OF REFERRAL.—To  
19 the extent practicable, the head of the appropriate  
20 department or agency shall ensure that referrals  
21 made under this subsection—

22 (A) conform to requirements established by  
23 the Secretary of State for form and content;  
24 and

1           (B) are complete and include sufficient  
2           contact information, supporting documentation,  
3           and any other material the Secretary of State  
4           or the Secretary consider necessary or helpful  
5           in determining whether an applicant is entitled  
6           to refugee status.

7           (6) TERMINATION.—The application process  
8           and referral system under this subsection shall ter-  
9           minate upon the later of 1 year before the termi-  
10          nation of the designation under subsection (b)(1) or  
11          on the date of a joint determination by the Secretary  
12          of State and the Secretary of Defense, in consulta-  
13          tion with the Secretary, that such termination is in  
14          the national interest of the United States.

15          (d) GENERAL PROVISIONS.—

16           (1) PROHIBITION ON FEES.—The Secretary,  
17           the Secretary of Defense, or the Secretary of State  
18           may not charge any fee in connection with a request  
19           for a classification and referral as a refugee under  
20           this section.

21           (2) DEFENSE PERSONNEL.—Any limitation in  
22           law with respect to the number of personnel within  
23           the Office of the Secretary of Defense, the military  
24           departments, or a Defense Agency (as defined in  
25           section 101(a) of title 10, United States Code) shall

1 not apply to personnel employed for the primary  
2 purpose of carrying out this section.

3 (3) REPRESENTATION.—An alien applying for  
4 admission to the United States under this section  
5 may be represented during the application process,  
6 including at relevant interviews and examinations,  
7 by an attorney or other accredited representative.  
8 Such representation shall not be at the expense of  
9 the United States Government.

10 (4) PROTECTION OF ALIENS.—The Secretary of  
11 State, in consultation with the head of any other ap-  
12 propriate Federal agency, shall make a reasonable  
13 effort to provide an alien who has been classified as  
14 an Afghan ally and has been referred as a refugee  
15 under this section protection or to immediately re-  
16 move such alien from Afghanistan, if possible.

17 (5) OTHER ELIGIBILITY FOR IMMIGRANT STA-  
18 TUS.—No alien shall be denied the opportunity to  
19 apply for admission under this section solely because  
20 the alien qualifies as an immediate relative or is eli-  
21 gible for any other immigrant classification.

22 (6) AUTHORIZATION OF APPROPRIATIONS.—  
23 There are authorized to be appropriated such sums  
24 as necessary for each of fiscal years 2024 through  
25 2034 to carry out this section.

1 (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion may be construed to inhibit the Secretary of State  
3 from accepting refugee referrals from any entity.

4 **SEC. 315. IMPROVING EFFICIENCY AND OVERSIGHT OF**  
5 **REFUGEE AND SPECIAL IMMIGRANT PROC-**  
6 **ESSING.**

7 (a) ACCEPTANCE OF FINGERPRINT CARDS AND SUB-  
8 MISSIONS OF BIOMETRICS.—In addition to the methods  
9 authorized under the heading relating to the Immigration  
10 and Naturalization Service under title I of the Depart-  
11 ments of Commerce, Justice, and State, the Judiciary, and  
12 Related Agencies Appropriations Act of 1998 (Public Law  
13 105–119, 111 Stat. 2448; 8 U.S.C. 1103 note), and other  
14 applicable law, and subject to such safeguards as the Sec-  
15 retary, in consultation with the Secretary of State or the  
16 Secretary of Defense, as appropriate, shall prescribe to en-  
17 sure the integrity of the biometric collection (which shall  
18 include verification of identity by comparison of such fin-  
19 gerprints with fingerprints taken by or under the direct  
20 supervision of the Secretary prior to or at the time of the  
21 individual’s application for admission to the United  
22 States), the Secretary may, in the case of any application  
23 for any benefit under the Immigration and Nationality Act  
24 (8 U.S.C. 1101 et seq.), accept fingerprint cards or any  
25 other submission of biometrics—

1           (1) prepared by international or nongovern-  
2           mental organizations under an appropriate agree-  
3           ment with the Secretary or the Secretary of State;

4           (2) prepared by employees or contractors of the  
5           Department of Homeland Security or the Depart-  
6           ment of State; or

7           (3) provided by an agency (as defined under  
8           section 3502 of title 44, United States Code).

9           (b) STAFFING.—

10           (1) VETTING.—The Secretary of State, the Sec-  
11           retary, the Secretary of Defense, and any other  
12           agency authorized to carry out the vetting process  
13           under this subtitle, shall each ensure sufficient staff-  
14           ing, and request the resources necessary, to effi-  
15           ciently and adequately carry out the vetting of appli-  
16           cants for—

17                   (A) referral to the United States Refugee  
18                   Admissions Program, consistent with the deter-  
19                   minations established under section 207 of the  
20                   Immigration and Nationality Act (8 U.S.C.  
21                   1157); and

22                   (B) special immigrant status.

23           (2) REFUGEE RESETTLEMENT.—The Secretary  
24           of Health and Human Services shall ensure suffi-  
25           cient staffing to efficiently provide assistance under

1 chapter 2 of title IV of the Immigration and Nation-  
2 ality Act (8 U.S.C. 1521 et seq.) to refugees reset-  
3 tled in the United States.

4 (c) REMOTE PROCESSING.—Notwithstanding any  
5 other provision of law, the Secretary of State and the Sec-  
6 retary shall employ remote processing capabilities for ref-  
7 ugee processing under section 207 of the Immigration and  
8 Nationality Act (8 U.S.C. 1157), including secure digital  
9 file transfers, videoconferencing and teleconferencing ca-  
10 pabilities, remote review of applications, remote inter-  
11 views, remote collection of signatures, waiver of the appli-  
12 cant’s appearance or signature (other than a final appear-  
13 ance and verification by the oath of the applicant prior  
14 to or at the time of the individual’s application for admis-  
15 sion to the United States), waiver of signature for individ-  
16 uals under 5 years old, and any other capability the Sec-  
17 retary of State and the Secretary consider appropriate, se-  
18 cure, and likely to reduce processing wait times at par-  
19 ticular facilities.

20 (d) MONTHLY ARRIVAL REPORTS.—With respect to  
21 monthly reports issued by the Secretary of State relating  
22 to United States Refugee Admissions Program arrivals,  
23 the Secretary of State shall report—

24 (1) the number of monthly admissions of refu-  
25 gees, disaggregated by priorities; and

1           (2) the number of Afghan allies admitted as  
2 refugees.

3           (e) INTERAGENCY TASK FORCE ON AFGHAN ALLY  
4 STRATEGY.—

5           (1) ESTABLISHMENT.—Not later than 180 days  
6 after the date of the enactment of this Act, the  
7 President shall establish an Interagency Task Force  
8 on Afghan Ally Strategy (referred to in this section  
9 as the “Task Force”)—

10           (A) to develop and oversee the implementa-  
11 tion of the strategy and contingency plan de-  
12 scribed in subparagraph (A)(i) of paragraph  
13 (4); and

14           (B) to submit the report, and provide a  
15 briefing on the report, as described in subpara-  
16 graphs (A) and (B) of paragraph (4).

17           (2) MEMBERSHIP.—

18           (A) IN GENERAL.—The Task Force shall  
19 include—

20           (i) 1 or more representatives from  
21 each relevant Federal agency, as des-  
22 ignated by the head of the applicable rel-  
23 evant Federal agency; and

24           (ii) any other Federal Government of-  
25 ficial designated by the President.

1 (B) RELEVANT FEDERAL AGENCY DE-  
2 FINED.—In this paragraph, the term “relevant  
3 Federal agency” means—

- 4 (i) the Department of State;  
5 (ii) the Department Homeland Secu-  
6 rity;  
7 (iii) the Department of Defense;  
8 (iv) the Department of Health and  
9 Human Services;  
10 (v) the Federal Bureau of Investiga-  
11 tion; and  
12 (vi) the Office of the Director of Na-  
13 tional Intelligence.

14 (3) CHAIR.—The Task Force shall be chaired  
15 by the Secretary of State.

16 (4) DUTIES.—

17 (A) REPORT.—

18 (i) IN GENERAL.—Not later than 180  
19 days after the date on which the Task  
20 Force is established, the Task Force, act-  
21 ing through the chair of the Task Force,  
22 shall submit a report to the appropriate  
23 committees of Congress that includes—

24 (I) a strategy for facilitating the  
25 resettlement of nationals of Afghani-



1 stan outside the United States who,  
2 during the period beginning on Octo-  
3 ber 1, 2001, and ending on September  
4 1, 2021, directly and personally sup-  
5 ported the United States mission in  
6 Afghanistan, as determined by the  
7 Secretary of State in consultation  
8 with the Secretary of Defense; and

9 (II) a contingency plan for future  
10 emergency operations in foreign coun-  
11 tries involving foreign nationals who  
12 have worked directly with the United  
13 States Government, including the  
14 Armed Forces of the United States  
15 and United States intelligence agen-  
16 cies.

17 (ii) ELEMENTS.—The report required  
18 under clause (i) shall include—

19 (I) the total number of nationals  
20 of Afghanistan who have pending  
21 specified applications, disaggregated  
22 by—

23 (aa) such nationals in Af-  
24 ghanistan and such nationals in  
25 a third country;

202

1 (bb) type of specified appli-  
2 cation; and

3 (cc) applications that are  
4 documentarily complete and ap-  
5 plications that are not  
6 documentarily complete;

7 (II) an estimate of the number of  
8 nationals of Afghanistan who may be  
9 eligible for special immigrant status;

10 (III) with respect to the strategy  
11 required under subparagraph  
12 (A)(i)(I)—

13 (aa) the estimated number  
14 of nationals of Afghanistan de-  
15 scribed in such subparagraph;

16 (bb) a description of the  
17 process for safely resettling such  
18 nationals of Afghanistan;

19 (cc) a plan for processing  
20 such nationals of Afghanistan for  
21 admission to the United States  
22 that—

23 (AA) discusses the fea-  
24 sibility of remote processing  
25 for such nationals of Af-

1 ghanistan residing in Af-  
2 ghanistan;

3 (BB) includes any  
4 strategy for facilitating ref-  
5 ugee and consular proc-  
6 essing for such nationals of  
7 Afghanistan in third coun-  
8 tries, and the timelines for  
9 such processing;

10 (CC) includes a plan  
11 for conducting rigorous and  
12 efficient vetting of all such  
13 nationals of Afghanistan for  
14 processing;

15 (DD) discusses the  
16 availability and capacity of  
17 sites in third countries to  
18 process applications and  
19 conduct any required vetting  
20 for such nationals of Af-  
21 ghanistan, including the po-  
22 tential to establish addi-  
23 tional sites; and

24 (EE) includes a plan  
25 for providing updates and

1 necessary information to af-  
2 fected individuals and rel-  
3 evant nongovernmental or-  
4 ganizations;

5 (dd) a description of consid-  
6 erations, including resource con-  
7 straints, security concerns, miss-  
8 ing or inaccurate information,  
9 and diplomatic considerations,  
10 that limit the ability of the Sec-  
11 retary of State or the Secretary  
12 to increase the number of such  
13 nationals of Afghanistan who can  
14 be safely processed or resettled;

15 (ee) an identification of any  
16 resource or additional authority  
17 necessary to increase the number  
18 of such nationals of Afghanistan  
19 who can be processed or reset-  
20 tled;

21 (ff) an estimate of the cost  
22 to fully implement the strategy;  
23 and

24 (gg) any other matter the  
25 Task Force considers relevant to

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1 the implementation of the strat-  
2 egy;

3 (IV) with respect to the contin-  
4 gency plan required by clause  
5 (i)(II)—

6 (aa) a description of the  
7 standard practices for screening  
8 and vetting foreign nationals con-  
9 sidered to be eligible for resettlement  
10 in the United States, including  
11 a strategy for vetting,  
12 and maintaining the records of,  
13 such foreign nationals who are  
14 unable to provide identification  
15 documents or biographic details  
16 due to emergency circumstances;

17 (bb) a strategy for facilitat-  
18 ing refugee or consular processing  
19 for such foreign nationals  
20 in third countries;

21 (cc) clear guidance with re-  
22 spect to which Federal agency  
23 has the authority and responsi-  
24 bility to coordinate Federal resettle-  
25 ment efforts;

1 (dd) a description of any re-  
2 source or additional authority  
3 necessary to coordinate Federal  
4 resettlement efforts, including  
5 the need for a contingency fund;

6 (ee) any other matter the  
7 Task Force considers relevant to  
8 the implementation of the contin-  
9 gency plan; and

10 (V) a strategy for the efficient  
11 processing of all Afghan special immi-  
12 grant visa applications and appeals,  
13 including—

14 (aa) a review of current  
15 staffing levels and needs across  
16 all interagency offices and offi-  
17 cials engaged in the special immi-  
18 grant visa process;

19 (bb) an analysis of the ex-  
20 pected Chief of Mission approvals  
21 and denials of applications in the  
22 pipeline in order to project the  
23 expected number of visas nec-  
24 essary to provide special immi-  
25 grant status to all approved ap-

1 applicants under this subtitle dur-  
2 ing the several years after the  
3 date of the enactment of this  
4 Act;

5 (cc) an assessment as to  
6 whether adequate guidelines exist  
7 for reconsidering or reopening  
8 applications for special immi-  
9 grant visas in appropriate cir-  
10 cumstances and consistent with  
11 applicable laws; and

12 (dd) an assessment of the  
13 procedures throughout the special  
14 immigrant visa application proc-  
15 ess, including at the Portsmouth  
16 Consular Center, and the effec-  
17 tiveness of communication be-  
18 tween the Portsmouth Consular  
19 Center and applicants, including  
20 an identification of any area in  
21 which improvements to the effi-  
22 ciency of such procedures and  
23 communication may be made.

24 (iii) FORM.—The report required  
25 under clause (i) shall be submitted in un-

1           classified form but may include a classified  
2           annex.

3           (B) BRIEFING.—Not later than 60 days  
4           after submitting the report required by clause  
5           (i), the Task Force shall brief the appropriate  
6           committees of Congress on the contents of the  
7           report.

8           (5) TERMINATION.—The Task Force shall re-  
9           main in effect until the later of—

10           (A) the date on which the strategy re-  
11           quired under paragraph (4)(A)(i)(I) has been  
12           fully implemented;

13           (B) the date of a determination by the  
14           Secretary of State, in consultation with the Sec-  
15           retary of Defense and the Secretary, that a task  
16           force is no longer necessary for the implementa-  
17           tion of subparagraphs (A) and (B) of para-  
18           graph (1); or

19           (C) the date that is 10 years after the date  
20           of the enactment of this Act.

21           (f) IMPROVING CONSULTATION WITH CONGRESS.—  
22           Section 207 of the Immigration and Nationality Act (8  
23           U.S.C. 1157) is amended—

24           (1) in subsection (a), by amending paragraph  
25           (4) to read as follows:



1       “(4)(A) In the determination made under this sub-  
2 section for each fiscal year (beginning with fiscal year  
3 1992), the President shall enumerate, with the respective  
4 number of refugees so determined, the number of aliens  
5 who were granted asylum in the previous year.

6       “(B) In making a determination under paragraph  
7 (1), the President shall consider the information in the  
8 most recently published projected global resettlement  
9 needs report published by the United Nations High Com-  
10 missioner for Refugees.”;

11           (2) in subsection (e), by amending paragraph  
12 (2) to read as follows:

13           “(2) A description of the number and allocation  
14 of the refugees to be admitted, including the ex-  
15 pected allocation by region, and an analysis of the  
16 conditions within the countries from which they  
17 came.”; and

18           (3) by adding at the end the following—

19       “(g) QUARTERLY REPORTS ON ADMISSIONS.—Not  
20 later than 30 days after the last day of each quarter begin-  
21 ning the fourth quarter of fiscal year 2024, the President  
22 shall submit to the Committee on Homeland Security and  
23 Governmental Affairs, the Committee on the Judiciary,  
24 and the Committee on Foreign Relations of the Senate  
25 and the Committee on Homeland Security, the Committee

1 on the Judiciary, and the Committee on Foreign Affairs  
2 of the House of Representatives a report that includes the  
3 following:

4 “(1) REFUGEES ADMITTED.—

5 “(A) The number of refugees admitted to  
6 the United States during the preceding quarter.

7 “(B) The cumulative number of refugees  
8 admitted to the United States during the appli-  
9 cable fiscal year, as of the last day of the pre-  
10 ceding quarter.

11 “(C) The number of refugees expected to  
12 be admitted to the United States during the re-  
13 mainder of the applicable fiscal year.

14 “(D) The number of refugees from each  
15 region admitted to the United States during the  
16 preceding quarter.

17 “(2) ALIENS WITH PENDING SECURITY  
18 CHECKS.—With respect only to aliens processed  
19 under section 101(a)(27)(N), subtitle C of title III  
20 of the Border Act, or section 602(b)(2)(A)(ii)(II) of  
21 the Afghan Allies Protection Act of 2009 (8 U.S.C.  
22 1101 note; Public Law 111–8)—

23 “(A) the number of aliens, by nationality,  
24 security check, and responsible vetting agency,  
25 for whom a National Vetting Center or other

1 security check has been requested during the  
2 preceding quarter, and the number of aliens, by  
3 nationality, for whom the check was pending  
4 beyond 30 days; and

5 “(B) the number of aliens, by nationality,  
6 security check, and responsible vetting agency,  
7 for whom a National Vetting Center or other  
8 security check has been pending for more than  
9 180 days.

10 “(3) CIRCUIT RIDES.—

11 “(A) For the preceding quarter—

12 “(i) the number of Refugee Corps of-  
13 ficers deployed on circuit rides and the  
14 overall number of Refugee Corps officers;

15 “(ii) the number of individuals inter-  
16 viewed—

17 “(I) on each circuit ride; and

18 “(II) at each circuit ride location;

19 “(iii) the number of circuit rides; and

20 “(iv) for each circuit ride, the dura-  
21 tion of the circuit ride.

22 “(B) For the subsequent 2 quarters, the  
23 number of circuit rides planned.

24 “(4) PROCESSING.—

1           “(A) For refugees admitted to the United  
2 States during the preceding quarter, the aver-  
3 age number of days between—

4                   “(i) the date on which an individual  
5 referred to the United States Government  
6 as a refugee applicant is interviewed by the  
7 Secretary of Homeland Security; and

8                   “(ii) the date on which such individual  
9 is admitted to the United States.

10           “(B) For refugee applicants interviewed by  
11 the Secretary of Homeland Security in the pre-  
12 ceding quarter, the approval, denial, rec-  
13 ommended approval, recommended denial, and  
14 hold rates for the applications for admission of  
15 such individuals, disaggregated by nationality.”.

16 **SEC. 316. SUPPORT FOR CERTAIN VULNERABLE AFGHANS**  
17 **RELATING TO EMPLOYMENT BY OR ON BE-**  
18 **HALF OF THE UNITED STATES.**

19           (a) SPECIAL IMMIGRANT VISAS FOR CERTAIN REL-  
20 ATIVES OF CERTAIN MEMBERS OF THE ARMED  
21 FORCES.—

22           (1) IN GENERAL.—Section 101(a)(27) of the  
23 Immigration and Nationality Act (8 U.S.C.  
24 1101(a)(27)) is amended—

1 (A) in subparagraph (L)(iii), by adding a  
2 semicolon at the end;

3 (B) in subparagraph (M), by striking the  
4 period at the end and inserting “; and”; and

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

6 “(N) a citizen or national of Afghanistan  
7 who is the parent or brother or sister of—

8 “(i) a member of the armed forces (as  
9 defined in section 101(a) of title 10,  
10 United States Code); or

11 “(ii) a veteran (as defined in section  
12 101 of title 38, United States Code).”.

13 (2) NUMERICAL LIMITATIONS.—

14 (A) IN GENERAL.—Subject to subpara-  
15 graph (C), the total number of principal aliens  
16 who may be provided special immigrant visas  
17 under subparagraph (N) of section 101(a)(27)  
18 of the Immigration and Nationality Act (8  
19 U.S.C. 1101(a)(27)), as added by paragraph  
20 (1), may not exceed 2,500 each fiscal year.

21 (B) CARRYOVER.—If the numerical limita-  
22 tion specified in subparagraph (A) is not  
23 reached during a given fiscal year, the numer-  
24 ical limitation specified in such subparagraph

1 for the following fiscal year shall be increased  
2 by a number equal to the difference between—

3 (i) the numerical limitation specified  
4 in subparagraph (A) for the given fiscal  
5 year; and

6 (ii) the number of principal aliens pro-  
7 vided special immigrant visas under sub-  
8 paragraph (N) of section 101(a)(27) of the  
9 Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(27)) during the given fiscal year.

11 (C) MAXIMUM NUMBER OF VISAS.—The  
12 total number of aliens who may be provided  
13 special immigrant visas under subparagraph  
14 (N) of section 101(a)(27) of the Immigration  
15 and Nationality Act (8 U.S.C. 1101(a)(27))  
16 shall not exceed 10,000.

17 (D) DURATION OF AUTHORITY.—The au-  
18 thority to issue visas under subparagraph (N)  
19 of section 101(a)(27) of the Immigration and  
20 Nationality Act (8 U.S.C. 1101(a)(27)) shall—

21 (i) commence on the date of the en-  
22 actment of this Act; and

23 (ii) terminate on the date on which all  
24 such visas are exhausted.

1 (b) CERTAIN AFGHANS INJURED OR KILLED IN THE  
2 COURSE OF EMPLOYMENT.—Section 602(b) of the Af-  
3 ghan Allies Protection Act of 2009 (8 U.S.C. 1101 note;  
4 Public Law 111–8) is amended—

5 (1) in paragraph (2)(A)—

6 (A) by amending clause (ii) to read as fol-  
7 lows:

8 “(ii)(I) was or is employed in Afghan-  
9 istan on or after October 7, 2001, for not  
10 less than 1 year—

11 “(aa) by, or on behalf of, the  
12 United States Government; or

13 “(bb) by the International Secu-  
14 rity Assistance Force (or any suc-  
15 cessor name for such Force) in a ca-  
16 pacity that required the alien—

17 “(AA) while traveling off-  
18 base with United States military  
19 personnel stationed at the Inter-  
20 national Security Assistance  
21 Force (or any successor name for  
22 such Force), to serve as an inter-  
23 preter or translator for such  
24 United States military personnel;  
25 or

1                   “(BB) to perform activities  
2                   for the United States military  
3                   personnel stationed at Inter-  
4                   national Security Assistance  
5                   Force (or any successor name for  
6                   such Force); or

7                   “(II) in the case of an alien who was  
8                   wounded or seriously injured in connection  
9                   with employment described in subclause  
10                  (I), was employed for any period until the  
11                  date on which such wound or injury oc-  
12                  curred, if the wound or injury prevented  
13                  the alien from continuing such employ-  
14                  ment;” and

15                  (B) in clause (iii), by striking “clause (ii)”  
16                  and inserting “clause (ii)(I)”;

17                  (2) in paragraph (13)(A)(i), by striking “sub-  
18                  clause (I) or (II)(bb) of paragraph (2)(A)(ii)” and  
19                  inserting “item (aa) or (bb)(BB) of paragraph  
20                  (2)(A)(ii)(I)”;

21                  (3) in paragraph (14)(C), by striking “para-  
22                  graph (2)(A)(ii)” and inserting “paragraph  
23                  (2)(A)(ii)(I)” and

24                  (4) in paragraph (15), by striking “paragraph  
25                  (2)(A)(ii)” and inserting “paragraph (2)(A)(ii)(I)”.



1           (c) EXTENSION OF SPECIAL IMMIGRANT VISA PRO-  
2 GRAM UNDER AFGHAN ALLIES PROTECTION ACT OF  
3 2009.—Section 602(b) of the Afghan Allies Protection Act  
4 of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is  
5 amended—

6           (1) in paragraph (3)(F)—

7                 (A) in the subparagraph heading, by strik-  
8 ing “FISCAL YEARS 2015 THROUGH 2022” and  
9 inserting “FISCAL YEARS 2015 THROUGH 2029”;  
10 and

11                 (B) in clause (i), by striking “December  
12 31, 2024” and inserting “December 31, 2029”;  
13 and

14                 (C) in clause (ii), by striking “December  
15 31, 2024” and inserting “December 31, 2029”;  
16 and

17           (2) in paragraph (13), in the matter preceding  
18 subparagraph (A), by striking “January 31, 2024”  
19 and inserting “January 31, 2030”.

20           (d) AUTHORIZATION OF VIRTUAL INTERVIEWS.—  
21 Section 602(b)(4) of the Afghan Allies Protection Act of  
22 2009 ( 8 U.S.C. 1101 note; Public Law 111–8;) is amend-  
23 ed by adding at the end the following:

24                 “(D) VIRTUAL INTERVIEWS.—Notwith-  
25 standing section 222(e) of the Immigration and

1           Nationality Act (8 U.S.C. 1202(e)), an applica-  
2           tion for an immigrant visa under this section  
3           may be signed by the applicant through a vir-  
4           tual video meeting before a consular officer and  
5           verified by the oath of the applicant adminis-  
6           tered by the consular officer during a virtual  
7           video meeting.”.

8           (e) QUARTERLY REPORTS.—Paragraph (12) of sec-  
9           tion 602(b) of the Afghan Allies Protection Act of 2009  
10          (8 U.S.C. 1101 note; Public Law 111–8) is amended is  
11          amended to read as follows:

12                   “(12) QUARTERLY REPORTS.—

13                           “(A) REPORT TO CONGRESS.—Not later  
14                           than 120 days after the date of enactment of  
15                           the Border Act and every 90 days thereafter,  
16                           the Secretary of State and the Secretary of  
17                           Homeland Security, in consultation with the  
18                           Secretary of Defense, shall submit to the appro-  
19                           priate committees of Congress a report that in-  
20                           cludes the following:

21                                   “(i) For the preceding quarter—

22   “(I) a description of improve-  
23   ments made to the processing of spe-  
24   cial immigrant visas and refugee proc-

1                   essing for citizens and nationals of Af-  
2                   ghanistan;

3                   “(II) the number of new Afghan  
4                   referrals to the United States Refugee  
5                   Admissions Program, disaggregated  
6                   by referring entity;

7                   “(III) the number of interviews  
8                   of Afghans conducted by U.S. Citizen-  
9                   ship and Immigration Services,  
10                  disaggregated by the country in which  
11                  such interviews took place;

12                  “(IV) the number of approvals  
13                  and the number of denials of refugee  
14                  status requests for Afghans;

15                  “(V) the number of total admis-  
16                  sions to the United States of Afghan  
17                  refugees;

18                  “(VI) number of such admis-  
19                  sions, disaggregated by whether the  
20                  refugees come from within, or outside  
21                  of, Afghanistan;

22                  “(VII) the average processing  
23                  time for citizens and nationals of Af-  
24                  ghanistan who are applicants for re-

1                   ferral under section 314 of the Border  
2                   Act;

3                   “(VIII) the number of such cases  
4                   processed within such average proc-  
5                   essing time; and

6                   “(IX) the number of denials  
7                   issued with respect to applications by  
8                   citizens and nationals of Afghanistan  
9                   for referrals under section 314 of the  
10                  Border Act.

11                  “(ii) The number of applications by  
12                  citizens and nationals of Afghanistan for  
13                  refugee referrals pending as of the date of  
14                  submission of the report.

15                  “(iii) A description of the efficiency  
16                  improvements made in the process by  
17                  which applications for special immigrant  
18                  visas under this subsection are processed,  
19                  including information described in clauses  
20                  (iii) through (viii) of paragraph (11)(B).

21                  “(B) FORM OF REPORT.—Each report re-  
22                  quired by subparagraph (A) shall be submitted  
23                  in unclassified form but may contain a classi-  
24                  fied annex.

1           “(C) PUBLIC POSTING.—The Secretary of  
2           State shall publish on the website of the De-  
3           partment of State the unclassified portion of  
4           each report submitted under subparagraph  
5           (A).”.

6           (f) GENERAL PROVISIONS.—

7           (1) PROHIBITION ON FEES.—The Secretary,  
8           the Secretary of Defense, or the Secretary of State  
9           may not charge any fee in connection with an appli-  
10          cation for, or issuance of, a special immigrant visa  
11          or special immigrant status under—

12                  (A) section 602 of the Afghan Allies Pro-  
13                  tection Act of 2009 (8 U.S.C. 1101 note; Public  
14                  Law 111–8);

15                  (B) section 1059 of the National Defense  
16                  Authorization Act for Fiscal Year 2006 (8  
17                  U.S.C. 1101 note; Public Law 109–163); or

18                  (C) subparagraph (N) of section  
19                  101(a)(27) of the Immigration and Nationality  
20                  Act (8 U.S.C. 1101(a)(27)), as added by sub-  
21                  section (a)(1).

22           (2) DEFENSE PERSONNEL.—Any limitation in  
23           law with respect to the number of personnel within  
24           the Office of the Secretary of Defense, the military  
25           departments, or a Defense Agency (as defined in

1 section 101(a) of title 10, United States Code) shall  
2 not apply to personnel employed for the primary  
3 purpose of carrying out this section.

4 (3) PROTECTION OF ALIENS.—The Secretary of  
5 State, in consultation with the head of any other ap-  
6 propriate Federal agency, shall make a reasonable  
7 effort to provide an alien who is seeking status as  
8 a special immigrant under subparagraph (N) of sec-  
9 tion 101(a)(27) of the Immigration and Nationality  
10 Act (8 U.S.C. 1101(a)(27)), as added by subsection  
11 (a)(1), protection or to immediately remove such  
12 alien from Afghanistan, if possible.

13 (4) RESETTLEMENT SUPPORT.—A citizen or  
14 national of Afghanistan who is admitted to the  
15 United States under this section or an amendment  
16 made by this section shall be eligible for resettlement  
17 assistance, entitlement programs, and other benefits  
18 available to refugees admitted under section 207 of  
19 the Immigration and Nationality Act (8 U.S.C.  
20 1157) to the same extent, and for the same periods  
21 of time, as such refugees.

22 **SEC. 317. SUPPORT FOR ALLIES SEEKING RESETTLEMENT**  
23 **IN THE UNITED STATES.**

24 Notwithstanding any other provision of law, during  
25 the period beginning on the date of the enactment of this

1 Act and ending on the date that is 10 years thereafter,  
2 the Secretary and the Secretary of State may waive any  
3 fee or surcharge or exempt individuals from the payment  
4 of any fee or surcharge collected by the Department of  
5 Homeland Security and the Department of State, respec-  
6 tively, in connection with a petition or application for, or  
7 issuance of, an immigrant visa to a national of Afghani-  
8 stan under section 201(b)(2)(A)(i) or 203(a) of the Immi-  
9 gration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)  
10 and 1153(a)), respectively.

11 **SEC. 318. REPORTING.**

12 (a) QUARTERLY REPORTS.—Beginning on January  
13 1, 2028, not less frequently than quarterly, the Secretary  
14 shall submit to the Committee on the Judiciary of the Sen-  
15 ate and the Committee on the Judiciary of the House of  
16 Representatives a report that includes, for the preceding  
17 quarter—

18 (1) the number of individuals granted condi-  
19 tional permanent resident status under section 313,  
20 disaggregated by the number of such individuals for  
21 whom conditions have been removed;

22 (2) the number of individuals granted condi-  
23 tional permanent resident status under section 313  
24 who have been determined to be ineligible for re-

1        removal of conditions (and the reasons for such deter-  
2        mination); and

3            (3) the number of individuals granted condi-  
4        tional permanent resident status under section 313  
5        for whom no such determination has been made  
6        (and the reasons for the lack of such determination).

7        (b) ANNUAL REPORTS.—Not less frequently than an-  
8        nually, the Secretary, in consultation with the Attorney  
9        General, shall submit to the appropriate committees of  
10       Congress a report that includes for the preceding year,  
11       with respect to individuals granted conditional permanent  
12       resident status under section 313—

13            (1) the number of such individuals who are  
14        placed in removal proceedings under section 240 of  
15        the Immigration and Nationality Act (8 U.S.C.  
16        1229a) charged with a ground of deportability under  
17        subsection (a)(2) of section 237 of that Act (8  
18        U.S.C. 1227), disaggregated by each applicable  
19        ground under that subsection;

20            (2) the number of such individuals who are  
21        placed in removal proceedings under section 240 of  
22        the Immigration and Nationality Act (8 U.S.C.  
23        1229a) charged with a ground of deportability under  
24        subsection (a)(3) of section 237 of that Act (8



1 U.S.C. 1227), disaggregated by each applicable  
2 ground under that subsection;

3 (3) the number of final orders of removal issued  
4 pursuant to proceedings described in paragraphs (1)  
5 and (2), disaggregated by each applicable ground of  
6 deportability;

7 (4) the number of such individuals for whom  
8 such proceedings are pending, disaggregated by each  
9 applicable ground of deportability; and

10 (5) a review of the available options for removal  
11 from the United States, including any changes in  
12 the feasibility of such options during the preceding  
13 year.

14 **TITLE IV—PROMOTING LEGAL**  
15 **IMMIGRATION**

16 **SEC. 401. EMPLOYMENT AUTHORIZATION FOR FIANCÉS,**  
17 **FIANCÉES, SPOUSES, AND CHILDREN OF**  
18 **UNITED STATES CITIZENS AND SPECIALTY**  
19 **WORKERS.**

20 Section 214(c) of the Immigration and Nationality  
21 Act (8 U.S.C. 1184(c)) is amended by adding at the end  
22 the following:

23 “(15) The Secretary of Homeland Security shall au-  
24 thorize an alien fiancé, fiancée, or spouse admitted pursu-  
25 ant to clause (i) or (ii) of section 101(a)(15)(K), or any

1 child admitted pursuant to section 101(a)(15)(K)(iii) to  
2 engage in employment in the United States incident to  
3 such status and shall provide the alien with an ‘employ-  
4 ment authorized’ endorsement during the period of au-  
5 thorized admission.

6 “(16) Upon the receipt of a completed petition de-  
7 scribed in subparagraph (E) or (F) of section 204(a)(1)  
8 for a principal alien who has been admitted pursuant to  
9 section 101(a)(15)(H)(i)(b), the Secretary of Homeland  
10 Security shall authorize the alien spouse or child of such  
11 principal alien who has been admitted under section  
12 101(a)(15)(H) to accompany or follow to join a principal  
13 alien admitted under such section, to engage in employ-  
14 ment in the United States incident to such status and  
15 shall provide the alien with an ‘employment authorized’  
16 endorsement during the period of authorized admission.”.

17 **SEC. 402. ADDITIONAL VISAS.**

18 Section 201 of the Immigration and Nationality Act  
19 (8 U.S.C. 1151) is amended—

20 (1) in subsection (c)—

21 (A) by adding at the end the following:

22 “(6)(A) For fiscal years 2025, 2026, 2027, 2028, and  
23 2029—

24 “(i) 512,000 shall be substituted for 480,000 in  
25 paragraph (1)(A)(i); and

1           “(ii) 258,000 shall be substituted for 226,000  
2           in paragraph (1)(B)(i)(i) of that paragraph.

3           “(B) The additional visas authorized under subpara-  
4 graph (A)—

5           “(i) shall be issued each fiscal year;

6           “(ii) shall remain available in any fiscal year  
7           until issued; and

8           “(iii) shall be allocated in accordance with this  
9           section and sections 202 and 203.”; and

10           (2) in subsection (d), by adding at the end the  
11           following:

12           “(3)(A) For fiscal years 2025, 2026, 2027, 2028, and  
13 2029, 158,000 shall be substituted for 140,000 in para-  
14 graph (1)(A).

15           “(B) The additional visas authorized under subpara-  
16 graph (A)—

17           “(i) shall be issued each fiscal year;

18           “(ii) shall remain available in any fiscal year  
19           until issued; and

20           “(iii) shall be allocated in accordance with this  
21           section and sections 202 and 203.”.

22 **SEC. 403. CHILDREN OF LONG-TERM VISA HOLDERS.**

23           (a) MAINTAINING FAMILY UNITY FOR CHILDREN OF  
24 LONG-TERM H-1B NONIMMIGRANTS AFFECTED BY  
25 DELAYS IN VISA AVAILABILITY.—Section 203(h) of the

1 Immigration and Nationality Act (8 U.S.C. 1153(h)) is  
2 amended by adding at the end the following:

3 “(6) CHILD STATUS DETERMINATION FOR CER-  
4 TAIN DEPENDENT CHILDREN OF H-1B NON-  
5 IMMIGRANTS.—

6 “(A) DETERMINATIVE FACTORS.—For  
7 purposes of subsection (d), the determination of  
8 whether an alien described in subparagraph (B)  
9 satisfies the age and marital status require-  
10 ments set forth in section 101(b)(1) shall be  
11 made using the alien’s age and marital status  
12 on the date on which an initial petition as a  
13 nonimmigrant described in section  
14 101(a)(15)(H)(i)(b) was filed on behalf of the  
15 alien’s parent, if such petition was approved.

16 “(B) ALIEN DESCRIBED.—An alien is de-  
17 scribed in this subparagraph if such alien—

18 “(i) maintained, for an aggregate pe-  
19 riod of at least 8 years before reaching 21  
20 years of age, the status of a dependent  
21 child of a nonimmigrant described in sec-  
22 tion 101(a)(15)(H)(i)(b) pursuant to a  
23 lawful admission; and

24 “(ii)(I) sought to acquire the status of  
25 an alien lawfully admitted for permanent

1 residence during the 2-year period begin-  
2 ning on the date on which an immigrant  
3 visa became available to such alien; or

4 “(II) demonstrates, by clear and con-  
5 vincing evidence, that the alien’s failure to  
6 seek such status during such 2-year period  
7 was due to extraordinary circumstances.”.

8 (b) NONIMMIGRANT DEPENDENT CHILDREN OF H-  
9 1B NONIMMIGRANTS.—Section 214 of the Immigration  
10 and Nationality Act (8 U.S.C. 1184) is amended by add-  
11 ing at the end the following:

12 “(s) CHILD DERIVATIVE BENEFICIARIES OF H-1B  
13 NONIMMIGRANTS.—

14 “(1) AGE DETERMINATION.—In the case of an  
15 alien who maintained, for an aggregate period of at  
16 least 8 years before reaching 21 years of age, the  
17 status of a dependent child of a nonimmigrant de-  
18 scribed in section 101(a)(15)(H)(i)(b) pursuant to a  
19 lawful admission, such alien’s age shall be deter-  
20 mined based on the date on which an initial petition  
21 for classification under such section was filed on be-  
22 half of the alien’s parent, if such petition is ap-  
23 proved.

24 “(2) LONG-TERM DEPENDENTS.—Notwith-  
25 standing the alien’s actual age or marital status, an

1 alien who is determined to be a child under para-  
2 graph (1) and is otherwise eligible may change sta-  
3 tus to, or extend status as, a dependent child of a  
4 nonimmigrant described in section  
5 101(a)(15)(H)(i)(b) if the alien’s parent—

6 “(A) maintains lawful status under such  
7 section;

8 “(B) has an employment-based immigrant  
9 visa petition that has been approved pursuant  
10 to section 203(b); and

11 “(C) has not yet had an opportunity to  
12 seek an immigrant visa or adjust status under  
13 section 245.

14 “(3) EMPLOYMENT AUTHORIZATION.—An alien  
15 who is determined to be a child under paragraph (1)  
16 is authorized to engage in employment in the United  
17 States incident to the status of his or her non-  
18 immigrant parent.

19 “(4) SURVIVING RELATIVE CONSIDERATION.—  
20 Notwithstanding the death of the qualifying relative,  
21 an alien who is determined to be a child under para-  
22 graph (1) is authorized to extend status as a de-  
23 pendent child of a nonimmigrant described in section  
24 101(a)(15)(H)(i)(b).”.

25 (c) MOTION TO REOPEN OR RECONSIDER.—

1           (1) IN GENERAL.—A motion to reopen or re-  
2           consider the denial of a petition under section 204  
3           of the Immigration and Nationality Act (8 U.S.C.  
4           1154) and a subsequent application for an immi-  
5           grant visa or adjustment of status under section 245  
6           of the Immigration and Nationality Act (8 U.S.C.  
7           1255), may be granted if—

8                   (A) such petition or application would have  
9                   been approved if—

10                           (i) section 203(h)(6) of the Immigra-  
11                           tion and Nationality Act, as added by sub-  
12                           section (a), had been in effect when the pe-  
13                           tition or application was adjudicated; and

14                           (ii) the person concerned remains eli-  
15                           gible for the requested benefit;

16                   (B) the individual seeking relief pursuant  
17                   to such motion was in the United States at the  
18                   time the underlying petition or application was  
19                   filed; and

20                   (C) such motion is filed with the Secretary  
21                   or the Attorney General not later than the date  
22                   that is 2 years after the date of the enactment  
23                   of this Act.

1           (2) PROTECTION FROM REMOVAL.—Notwith-  
2 standing any other provision of the law, the Attor-  
3 ney General and the Secretary—

4           (A) may not initiate removal proceedings  
5 against or remove any alien who has a pending  
6 nonfrivolous motion under paragraph (1) or is  
7 seeking to file such a motion unless—

8           (i) the alien is a danger to the com-  
9 munity or a national security risk; or

10           (ii) initiating a removal proceeding  
11 with respect to such alien is in the public  
12 interest; and

13           (B) shall provide aliens with a reasonable  
14 opportunity to file such a motion.

15           (3) EMPLOYMENT AUTHORIZATION.—An alien  
16 with a pending, nonfrivolous motion under this sub-  
17 section shall be authorized to engage in employment  
18 through the date on which a final administrative de-  
19 cision regarding such motion has been made.

20 **SEC. 404. MILITARY NATURALIZATION MODERNIZATION.**

21           (a) IN GENERAL.—Chapter 2 of title III of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1421 et seq.) is  
23 amended—

24           (1) by striking section 328 (8 U.S.C. 1439);  
25           and



1 (2) in section 329 (8 U.S.C. 1440)—

2 (A) by amending the section heading to  
3 read as follows: “**NATURALIZATION**  
4 **THROUGH SERVICE IN THE SELECTED RE-**  
5 **SERVE OR IN ACTIVE-DUTY STATUS.—**”;

6 (B) in subsection (a)—

7 (i) in the matter preceding paragraph  
8 (1), by striking “during either” and all  
9 that follows through “foreign force”;

10 (ii) in paragraph (1)—

11 (I) by striking “America Samoa,  
12 or Swains Island” and inserting  
13 “American Samoa, Swains Island, or  
14 any of the freely associated States (as  
15 defined in section 611(b)(1)(C) of the  
16 Individuals with Disabilities Edu-  
17 cation Act (20 U.S.C.  
18 1411(b)(1)(C)),”;

19 (II) by striking “he” and insert-  
20 ing “such person”; and

21 (iii) in paragraph (2), by striking “in  
22 an active-duty status, and whether separa-  
23 tion from such service was under honorable  
24 conditions” and inserting “in accordance  
25 with subsection (b)(3)”; and

1 (C) in subsection (b)—

2 (i) in paragraph (1), by striking “he”  
3 and inserting “such person”; and

4 (ii) in paragraph (3), by striking “an  
5 active-duty status” and all that follows  
6 through “foreign force, and” and inserting  
7 “in an active status (as defined in section  
8 101(d) of title 10, United States Code), in  
9 the Selected Reserve of the Ready Reserve,  
10 or on active duty (as defined in such sec-  
11 tion) and, if separated”.

12 (b) CLERICAL AMENDMENT.—The table of contents  
13 for the Immigration and Nationality Act (8 U.S.C. 1101  
14 et seq.) is amended by striking the items relating to sec-  
15 tions 328 and 329 and inserting the following:

“Sec. 329. Naturalization through service in the Selected Reserve or in active-  
duty status.”.

16 **SEC. 405. TEMPORARY FAMILY VISITS.**

17 (a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA  
18 SUBCATEGORY.—Section 101(a)(15)(B) of the Immigra-  
19 tion and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is  
20 amended by striking “temporarily for business or tempo-  
21 rarily for pleasure;” and inserting “temporarily for—

22 “(i) business;

23 “(ii) pleasure; or

24 “(iii) family purposes;”.

1 (b) REQUIREMENTS APPLICABLE TO FAMILY PUR-  
2 POSES VISAS.—Section 214 of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1184), as amended by section  
4 403(b), is further amended by adding at the end the fol-  
5 lowing:

6 “(t) REQUIREMENTS APPLICABLE TO FAMILY PUR-  
7 POSES VISAS.—

8 “(1) DEFINED TERM.—In this subsection and  
9 in section 101(a)(15)(B)(iii), the term ‘family pur-  
10 poses’ means any visit by a relative for a social, oc-  
11 casional, major life, or religious event, or for any  
12 other purpose.

13 “(2) FAMILY PURPOSES VISA.—Except as pro-  
14 vided in paragraph (3), family travel for pleasure is  
15 authorized pursuant to the policies, terms, and con-  
16 ditions in effect on the day before the date of the  
17 enactment of the Border Act.

18 “(3) SPECIAL RULES FOR FAMILY PURPOSES  
19 VISAS FOR ALIENS AWAITING IMMIGRANT VISAS.—

20 “(A) NOTIFICATION OF APPROVED PETI-  
21 TION.—A visa may not be issued to a relative  
22 under section 101(a)(15)(B)(iii) until after the  
23 consular officer is notified that the Secretary of  
24 Homeland Security has approved a petition  
25 filed in the United States by a family member

1 of the relative who is a United States citizen or  
2 lawful permanent resident.

3 “(B) PETITION.—A petition referred to in  
4 subparagraph (A) shall—

5 “(i) be in such form and contain such  
6 information as the Secretary may prescribe  
7 by regulation; and

8 “(ii) shall include—

9 “(I) a declaration of financial  
10 support, affirming that the petitioner  
11 will provide financial support to the  
12 relative for the duration of his or her  
13 temporary stay in the United States;

14 “(II) evidence that the relative  
15 has—

16 “(aa) obtained, for the dura-  
17 tion of his or her stay in the  
18 United States, a short-term trav-  
19 el medical insurance policy; or

20 “(bb) an existing health in-  
21 surance policy that provides cov-  
22 erage for international medical  
23 expenses; and

1                   “(III) a declaration from the rel-  
2                   ative, under penalty of perjury, af-  
3                   firming the relative’s—

4                               “(aa) intent to depart the  
5                               United States at the conclusion  
6                               of the relative’s period of author-  
7                               ized admission; and

8                               “(bb) awareness of the pen-  
9                               alties for overstaying such period  
10                              of authorized admission.

11                   “(4) PETITIONER ELIGIBILITY.—

12                               “(A) IN GENERAL.—Absent extraordinary  
13                              circumstances, an individual may not petition  
14                              for the admission of a relative as a non-  
15                              immigrant       described       in       section  
16                              101(a)(15)(B)(iii) if such individual previously  
17                              petitioned for the admission of such a relative  
18                              who—

19                               “(i) was admitted to the United  
20                               States pursuant to a visa issued under  
21                               such section as a result of such petition;  
22                               and

23                               “(ii) overstayed his or her period of  
24                               authorized admission.

25                   “(B) PREVIOUS PETITIONERS.—

1                   “(i) IN GENERAL.—An individual fil-  
2                   ing a declaration of financial support on  
3                   behalf of a relative seeking admission as a  
4                   nonimmigrant described in section  
5                   101(a)(15)(B)(iii) who has previously pro-  
6                   vided a declaration of financial support for  
7                   such a relative shall—

8                   “(I) certify to the Secretary of  
9                   Homeland Security that the relative  
10                  whose admission the individual pre-  
11                  viously supported did not overstay his  
12                  or her period of authorized admission;  
13                  or

14                  “(II) explain why the relative’s  
15                  overstay was due to extraordinary cir-  
16                  cumstances beyond the control of the  
17                  relative.

18                  “(ii) CRIMINAL PENALTY FOR FALSE  
19                  STATEMENT.—A certification under clause  
20                  (i)(I) shall be subject to the requirements  
21                  under section 1001 of title 18, United  
22                  States Code.

23                  “(C) WAIVER.—The Secretary of Home-  
24                  land Security may waive the application of sec-  
25                  tion 212(a)(9)(B) in the case of a non-

1 immigrant described in section  
2 101(a)(15)(B)(iii) who overstayed his or her pe-  
3 riod of authorized admission due to extraor-  
4 dinary circumstances beyond the control of the  
5 nonimmigrant.”.

6 (c) RESTRICTION ON CHANGE OF STATUS.—Section  
7 248(a)(1) of the Immigration and Nationality Act (8  
8 U.S.C. 1258(a)(1)) is amended by inserting “(B)(iii),”  
9 after “subparagraph”.

10 (d) FAMILY PURPOSE VISA ELIGIBILITY WHILE  
11 AWAITING IMMIGRANT VISA.—

12 (1) IN GENERAL.—Notwithstanding section  
13 214(b) of the Immigration and Nationality Act (8  
14 U.S.C. 1184(b)), a nonimmigrant described in sec-  
15 tion 101(a)(15)(B)(iii) of such Act, as added by sub-  
16 section (a), who has been classified as an immigrant  
17 under section 201 of such Act (8 U.S.C. 1151) and  
18 is awaiting the availability of an immigrant visa sub-  
19 ject to the numerical limitations under section 203  
20 of such Act (8 U.S.C. 1153) may be admitted pursu-  
21 ant to a family purposes visa, in accordance with  
22 section 214(t) of such Act, as added by subsection  
23 (b), if the individual is otherwise eligible for admis-  
24 sion.

1           (2) LIMITATION.—An alien admitted under sec-  
2           tion 101(a)(15)(B)(iii) of the Immigration and Na-  
3           tionality Act, pursuant to section 214(t)(3) of such  
4           Act, as added by subsection (b), may not be consid-  
5           ered to have been admitted to the United States for  
6           purposes of section 245(a) of such Act (8 U.S.C.  
7           1255(a)).

8           (e) RULE OF CONSTRUCTION.—Nothing in this sec-  
9           tion, or in the amendments made by this section, may be  
10          construed as—

11           (1) limiting the authority of immigration offi-  
12          cers to refuse to admit to the United States an ap-  
13          plicant under section 101(a)(15)(B)(iii) of the Immi-  
14          gration and Nationality Act, as added by subsection  
15          (a), who fails to meet 1 or more of the criteria under  
16          section 214(t) of such Act, as added by subsection  
17          (b), or who is inadmissible under section 212(a) of  
18          such Act (8 U.S.C. 1182(a)); or

19           (2) precluding the use of section  
20          101(a)(15)(B)(ii) of the Immigration and Nation-  
21          ality Act, as added by subsection (a), for family  
22          travel for pleasure in accordance with the policies  
23          and procedures in effect on the day before the date  
24          of the enactment of this Act.



1       **TITLE V—SELF-SUFFICIENCY**  
2                   **AND DUE PROCESS**  
3       **Subtitle A—Work Authorizations**

4       **SEC. 501. WORK AUTHORIZATION.**

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

7                   “(2) EMPLOYMENT ELIGIBILITY.—Except as  
8 provided in section 235C—

9                           “(A) an applicant for asylum is not enti-  
10 tled to employment authorization, but such au-  
11 thorization may be provided by the Secretary of  
12 Homeland Security by regulation; and

13                           “(B) an applicant who is not otherwise eli-  
14 gible for employment authorization may not be  
15 granted employment authorization under this  
16 section before the date that is 180 days after  
17 the date on which the applicant files an applica-  
18 tion for asylum.”.

19       **SEC. 502. EMPLOYMENT ELIGIBILITY.**

20           (a) IN GENERAL.—Chapter 4 of title II of the Immi-  
21 gration and Nationality Act (8 U.S.C. 1221 et seq.), as  
22 amended by section 141(a), is further amended by adding  
23 at the end the following:

24       **“SEC. 235C. EMPLOYMENT ELIGIBILITY.**

25                   “(a) EXPEDITED EMPLOYMENT ELIGIBILITY.—

1           “(1) IN GENERAL.—The Secretary of Homeland  
2 Security shall authorize employment for any alien  
3 who—

4           “(A)(i) is processed under the procedures  
5 described in section 235(b)(1) and receives a  
6 positive protection determination pursuant to  
7 such procedures; or

8           “(ii)(I) is processed under the procedures  
9 described in section 235B; and

10           “(II)(aa) receives a positive protection de-  
11 termination and is subsequently referred under  
12 section 235B(c)(2)(B)(i) for a protection merits  
13 interview; or

14           “(bb) is referred under section 235B(f)(1)  
15 for a protection merits interview; and

16           “(B) is released from the physical custody  
17 of the Secretary of Homeland Security.

18           “(2) APPLICATION.—The Secretary of Home-  
19 land Security shall grant employment authorization  
20 to—

21           “(A) an alien described in paragraph  
22 (1)(A)(i) immediately upon such alien’s release  
23 from physical custody;

24           “(B) an alien described in paragraph  
25 (1)(A)(ii)(II)(aa) at the time such alien receives

1 a positive protection determination or is re-  
2 ferred for a protection merits interview; and

3 “(C) an alien described in paragraph  
4 (1)(A)(ii)(II)(bb) on the date that is 30 days  
5 after the date on which such alien files an ap-  
6 plication pursuant to section 235B(f).

7 “(b) TERM.—Employment authorization under this  
8 section—

9 “(1) shall be for an initial period of 2 years;

10 and

11 “(2) shall be renewable, as applicable—

12 “(A) for additional 2-year periods while  
13 the alien is in protection merits removal pro-  
14 ceedings, including while the outcome of the  
15 protection merits interview is under administra-  
16 tive or judicial review; or

17 “(B) until the date on which—

18 “(i) the alien receives a negative pro-  
19 tection merits determination; or

20 “(ii) the alien otherwise receives em-  
21 ployment authorization under any other  
22 provision of this Act.

23 “(c) RULES OF CONSTRUCTION.—

24 “(1) DETENTION.—Nothing in this section may  
25 be construed to expand or restrict the authority of

1 the Secretary of Homeland Security to detain or re-  
2 lease from detention an alien, if such detention or  
3 release from detention is authorized by law.

4 “(2) LIMITATION ON AUTHORITY.—The Sec-  
5 retary of Homeland Security may not authorize for  
6 employment in the United States an alien being  
7 processed under section 235(b)(1) or 235B in any  
8 circumstance not explicitly described in this sec-  
9 tion.”.

10 (b) CONFORMING AMENDMENT.—The table of con-  
11 tents for the Immigration and Nationality Act (8 U.S.C.  
12 1101 et seq.) is amended by inserting after the item relat-  
13 ing to section 235B, as added by section 141(b), the fol-  
14 lowing:

“Sec. 235C. Employment eligibility.”.

## 15 **Subtitle B—Protecting Due Process**

### 16 **SEC. 511. ACCESS TO COUNSEL.**

17 (a) IN GENERAL.—Section 235(b)(1)(B)(iv) of the  
18 Immigration and Nationality Act (8 U.S.C.  
19 1225(b)(1)(B)(iv)) is amended to read as follows:

20 “(iv) INFORMATION ABOUT PROTEC-  
21 TION DETERMINATIONS.—

22 “(I) IN GENERAL.—The Sec-  
23 retary of Homeland Security shall  
24 provide an alien with information in  
25 plain language regarding protection

1 determinations conducted under this  
2 section, including the information de-  
3 scribed in subclause (II)—

4 “(aa) at the time of the ini-  
5 tial processing of the alien; and

6 “(bb) to the maximum ex-  
7 tent practicable, in the alien’s na-  
8 tive language or in a language  
9 the alien understands.

10 “(II) INFORMATION DE-  
11 SCRIBED.—The information described  
12 in this subclause is information relat-  
13 ing to—

14 “(aa) the rights and obliga-  
15 tions of the alien during a protec-  
16 tion determination;

17 “(bb) the process by which a  
18 protection determination is con-  
19 ducted;

20 “(cc) the procedures to be  
21 followed by the alien in a protec-  
22 tion determination; and

23 “(dd) the possible con-  
24 sequences of—

1                   “(AA) not complying  
2                   with the obligations referred  
3                   to in item (aa); and

4                   “(BB) not cooperating  
5                   with Federal authorities.

6                   “(III) ACCESSIBILITY.—An alien  
7                   who has a limitation that renders the  
8                   alien unable to read written materials  
9                   provided under subclause (I) shall re-  
10                  ceive an interpretation of such mate-  
11                  rials in the alien’s native language, to  
12                  the maximum extent practicable, or in  
13                  a language and format the alien un-  
14                  derstands.

15                  “(IV) TIMING OF PROTECTION  
16                  DETERMINATION.—

17                  “(aa) IN GENERAL.—The  
18                  protection determination of an  
19                  alien shall not occur earlier than  
20                  72 hours after the provision of  
21                  the information described in sub-  
22                  clauses (I) and (II).

23                  “(bb) WAIVER.—An alien  
24                  may—

1                   “(AA) waive the 72-  
2                   hour requirement under  
3                   item (aa) only if the alien  
4                   knowingly and voluntarily  
5                   does so, only in a written  
6                   format or in an alternative  
7                   record if the alien is unable  
8                   to write, and only after the  
9                   alien receives the informa-  
10                  tion required to be provided  
11                  under subclause (I); and

12                  “(BB) consult with an  
13                  individual of the alien’s  
14                  choosing in accordance with  
15                  subclause (V) before waiving  
16                  such requirement.

17                  “(V) CONSULTATION.—

18                  “(aa) IN GENERAL.—An  
19                  alien who is eligible for a protec-  
20                  tion determination may consult  
21                  with one or more individuals of  
22                  the alien’s choosing before the  
23                  screening or interview, or any re-  
24                  view of such a screening or inter-  
25                  view, in accordance with regula-

1 tions prescribed by the Secretary  
2 of Homeland Security.

3 “(bb) LIMITATION.—Con-  
4 sultation described in item (aa)  
5 shall be at no expense to the  
6 Federal Government.

7 “(cc) PARTICIPATION IN  
8 INTERVIEW.—An individual cho-  
9 sen by the alien may participate  
10 in the protection determination of  
11 the alien conducted under this  
12 subparagraph.

13 “(dd) ACCESS.—The Sec-  
14 retary of Homeland Security  
15 shall ensure that a detained alien  
16 has effective access to the indi-  
17 viduals chosen by the alien, which  
18 may include physical access, tele-  
19 phonic access, and access by elec-  
20 tronic communication.

21 “(ee) INCLUSIONS.—Con-  
22 sultations under this subclause  
23 may include—

24 “(AA) consultation with  
25 an individual authorized by



1 the Department of Justice  
2 through the Recognition and  
3 Accreditation Program; and

4 “(BB) consultation  
5 with an attorney licensed  
6 under applicable law.

7 “(ff) RULES OF CONSTRUC-  
8 TION.—Nothing in this subclause  
9 may be construed—

10 “(AA) to require the  
11 Federal Government to pay  
12 for any consultation author-  
13 ized under item (aa);

14 “(BB) to invalidate or  
15 limit the remedies, rights,  
16 and procedures of any Fed-  
17 eral law that provides pro-  
18 tection for the rights of indi-  
19 viduals with disabilities; or

20 “(CC) to contravene or  
21 limit the obligations under  
22 the Vienna Convention on  
23 Consular Relations done at  
24 Vienna April 24, 1963.”.

1 (b) CONFORMING AMENDMENT.—Section 238(a)(2)  
2 of the Immigration and Nationality Act (8 U.S.C.  
3 1228(a)(2)) is amended by striking “make reasonable ef-  
4 forts to ensure that the alien’s access to counsel” and in-  
5 serting “ensure that the alien’s access to counsel, pursu-  
6 ant to section 235(b)(1)(B)(iv),”.

7 **SEC. 512. COUNSEL FOR CERTAIN UNACCOMPANIED ALIEN**  
8 **CHILDREN.**

9 Section 235(c)(5) of the William Wilberforce Traf-  
10 ficking Victims Protection Reauthorization Act of 2008 (8  
11 U.S.C. 1232(c)(5)) is amended to read as follows:

12 “(5) ACCESS TO COUNSEL.—

13 “(A) IN GENERAL.—Except as provided in  
14 subparagraph (B), the Secretary of Health and  
15 Human Services shall ensure, to the greatest  
16 extent practicable and consistent with section  
17 292 of the Immigration and Nationality Act (8  
18 U.S.C. 1362), that all unaccompanied alien  
19 children who are or have been in the custody of  
20 the Secretary of Health and Human Services or  
21 the Secretary of Homeland Security, and who  
22 are not described in subsection (a)(2)(A), have  
23 counsel to represent them in legal proceedings  
24 or matters and protect them from mistreat-  
25 ment, exploitation, and trafficking. To the

1           greatest extent practicable, the Secretary of  
2           Health and Human Services shall make every  
3           effort to utilize the services of pro bono counsel  
4           who agree to provide representation to such  
5           children without charge.

6           “(B) EXCEPTION FOR CERTAIN CHILD-  
7           DREN.—

8                   “(i) IN GENERAL.—An unaccom-  
9                   panied alien child who at 13 years of age  
10                   or younger is referred to Health and  
11                   Human Services or placed in removal pro-  
12                   ceedings pursuant to section 240 of the  
13                   Immigration and Nationality Act (8 U.S.C.  
14                   1229a), shall be represented by counsel  
15                   subject to clause (v).

16                   “(ii) AGE DETERMINATIONS.—The  
17                   Secretary of Health and Human Services  
18                   shall ensure that age determinations of un-  
19                   accompanied alien children are conducted  
20                   in accordance with the procedures devel-  
21                   oped pursuant to subsection (b)(4).

22                   “(iii) APPEALS.—The rights and  
23                   privileges under this subparagraph—

24                           “(I) shall not attach to—

252

1           “(aa) an unaccompanied  
2 alien child after the date on  
3 which—

4           “(AA) the removal pro-  
5 ceedings of the child under  
6 section 240 of the Immigra-  
7 tion and Nationality Act (8  
8 U.S.C. 1229a) terminate,  
9 without an application for  
10 relief pending;

11           “(BB) an order of re-  
12 moval with respect to the  
13 child becomes final; or

14           “(CC) an immigration  
15 benefit is granted to the  
16 child; or

17           “(bb) an appeal to a district  
18 court or court of appeals of the  
19 United States, unless certified by  
20 the Secretary as a case of ex-  
21 traordinary importance; and

22           “(II) shall attach to administra-  
23 tive reviews and appeals.

24           “(iv) IMPLEMENTATION.—Not later  
25 than 90 days after the date of the enact-

1                   ment of the Border Act, the Secretary of  
2                   Health and Human Services shall imple-  
3                   ment this subparagraph.

4                   “(v) REMEDIES.—

5                                 “(I) IN GENERAL.—For the pop-  
6                                 ulation described in clause (i) of this  
7                                 subparagraph and subsection (b)(1) of  
8                                 section 292 of the Immigration and  
9                                 Nationality Act (8 U.S.C. 1362), de-  
10                                claratory judgment that the unaccom-  
11                                panied alien child has a right to be re-  
12                                ferred to counsel, including pro-bono  
13                                counsel, or a continuance of immigra-  
14                                tion proceedings, shall be the exclusive  
15                                remedies available, other than for  
16                                those funds subject to appropriations.

17                                “(II) SETTLEMENTS.—Any set-  
18                                tlement under this subparagraph shall  
19                                be subject to appropriations.”.

20 **SEC. 513. COUNSEL FOR CERTAIN INCOMPETENT INDIVID-**  
21 **UALS.**

22                   Section 240 of the Immigration and Nationality Act  
23 (8 U.S.C. 1158(a)) is amended—

24                                (1) by redesignating subsection (e) as sub-  
25                                section (f); and

1           (2) by inserting after subsection (d) the fol-  
2           lowing:

3           “(e) REPRESENTATION FOR CERTAIN INCOMPETENT  
4           ALIENS.—

5           “(1) IN GENERAL.—The immigration judge is  
6           authorized to appoint legal counsel or a certified  
7           representative accredited through the Department of  
8           Justice to represent an alien in removal proceedings  
9           if—

10                   “(A) pro bono counsel is not available; and

11                   “(B) the alien—

12                           “(i) is unrepresented;

13                           “(ii) was found by an immigration  
14                   judge to be incompetent to represent them-  
15                   selves; and

16                           “(iii) has been placed in or referred to  
17                   removal proceedings pursuant to this sec-  
18                   tion.

19           “(2) DETERMINATION ON COMPETENCE.—

20                   “(A) PRESUMPTION OF COMPETENCE.—An  
21           alien is presumed to be competent to participate  
22           in removal proceedings and has the duty to  
23           raise the issue of competency. If there are no  
24           indicia of incompetency in an alien’s case, no

1 further inquiry regarding competency is re-  
2 quired.

3 “(B) DECISION OF THE IMMIGRATION  
4 JUDGE.—

5 “(i) IN GENERAL.—If there are indi-  
6 cia of incompetency, the immigration judge  
7 shall consider whether there is good cause  
8 to believe that the alien lacks sufficient  
9 competency to proceed without additional  
10 safeguards.

11 “(ii) INCOMPETENCY TEST.—The test  
12 for determining whether an alien is incom-  
13 petent to participate in immigration pro-  
14 ceedings, is not malingering, and con-  
15 sequently lacks sufficient capacity to pro-  
16 ceed, is whether the alien, not solely on ac-  
17 count of illiteracy or language barriers—

18 “(I) lacks a rational and factual  
19 understanding of the nature and ob-  
20 ject of the proceedings;

21 “(II) cannot consult with an  
22 available attorney or representative;  
23 and

1                   “(III) does not have a reasonable  
2                   opportunity to examine and present  
3                   evidence and cross-examine witnesses.

4                   “(iii) NO APPEAL.—A decision of an  
5                   immigration judge under this subpara-  
6                   graph may not be appealed administra-  
7                   tively and is not subject to judicial review.

8                   “(C) EFFECT OF FINDING OF INCOM-  
9                   PETENCE.—A finding by an immigration judge  
10                  that an alien is incompetent to represent him-  
11                  self or herself in removal proceedings shall not  
12                  prejudice the outcome of any proceeding under  
13                  this section or any finding by the immigration  
14                  judge with respect to whether the alien is inad-  
15                  missible under section 212 or removable under  
16                  section 237.

17                  “(3) QUARTERLY REPORT.—Not later than 90  
18                  days after the effective date of a final rule imple-  
19                  menting this subsection, and quarterly thereafter,  
20                  the Director of the Executive Office for Immigration  
21                  Review shall submit to the appropriate committees  
22                  of Congress a report that includes—

23                  “(A)(i) the number of aliens in proceedings  
24                  under this section who claimed during the re-  
25                  porting period to be incompetent to represent



1 themselves, disaggregated by immigration court  
2 and immigration judge; and

3 “(ii) a description of each reason given for  
4 such claims, such as mental disease or mental  
5 defect; and

6 “(B)(i) the number of aliens in proceedings  
7 under this section found during the reporting  
8 period by an immigration judge to be incom-  
9 petent to represent themselves, disaggregated  
10 by immigration court and immigration judge;  
11 and

12 “(ii) a description of each reason upon  
13 which such findings were based, such as mental  
14 disease or mental defect.

15 “(4) RULE OF CONSTRUCTION.—Nothing in  
16 this subsection may be construed—

17 “(A) to require the Secretary of Homeland  
18 Security or the Attorney General to analyze  
19 whether an alien is incompetent to represent  
20 themselves, absent an indicia of incompetency;

21 “(B) to establish a substantive due process  
22 right;

23 “(C) to automatically equate a diagnosis of  
24 a mental illness to a lack of competency;

1           “(D) to limit the ability of the Attorney  
2           General or the immigration judge to prescribe  
3           safeguards to protect the rights and privileges  
4           of the alien;

5           “(E) to limit any authorized representation  
6           program by a State, local, or Tribal govern-  
7           ment;

8           “(F) to provide any statutory right to rep-  
9           resentation in any proceeding authorized under  
10          this Act, unless such right is already authorized  
11          by law; or

12          “(G) to interfere with, create, or expand  
13          any right or responsibility established through a  
14          court order or settlement agreement in effect  
15          before the date of the enactment of the Border  
16          Act.

17          “(5) RULEMAKING.—The Attorney General is  
18          authorized to prescribe regulations to carry out this  
19          subsection.”.

20   **SEC. 514. CONFORMING AMENDMENT.**

21          Section 292 of the Immigration and Nationality Act  
22          (8 U.S.C. 1362) is amended to read as follows:

23   **“SEC. 292. RIGHT TO COUNSEL.**

24          “(a) IN GENERAL.—In any removal proceeding be-  
25          fore an immigration judge and in any appeal proceeding

1 before the Attorney General from an order issued through  
2 such removal proceeding, the person concerned shall have  
3 the privilege of being represented (at no expense to the  
4 Federal Government) by any counsel who is authorized to  
5 practice in such proceedings.

6 “(b) EXCEPTIONS FOR CERTAIN POPULATIONS.—  
7 The Federal Government is authorized to provide counsel,  
8 at its own expense, in proceedings described in subsection  
9 (a) for—

10 “(1) unaccompanied alien children described in  
11 paragraph (5) of section 235(c) of the William Wil-  
12 berforce Trafficking Victims Protection Reauthoriza-  
13 tion Act of 2008 (8 U.S.C. 1232(c)); and

14 “(2) subject to appropriations, certain incom-  
15 petent aliens described in section 240(e).”.

## 16 **TITLE VI—ACCOUNTABILITY** 17 **AND METRICS**

### 18 **SEC. 601. EMPLOYMENT AUTHORIZATION COMPLIANCE.**

19 Not later than 1 year and 180 days after the date  
20 of the enactment of this Act, and annually thereafter, the  
21 Secretary shall submit a report to the appropriate commit-  
22 tees of Congress and to the public that describes the ac-  
23 tions taken by Secretary pursuant to section 235C of the  
24 Immigration and Nationality Act, as added by section 502,  
25 including—

1           (1) the number of employment authorization  
2 applications granted or denied pursuant to sub-  
3 section (a)(1) of such section 235C, disaggregated  
4 by whether the alien concerned was processed under  
5 the procedures described in section 235(b)(1) or  
6 235B of such Act;

7           (2) the ability of the Secretary to comply with  
8 the timelines for provision of work authorization pre-  
9 scribed in subparagraphs (A) through (C) of section  
10 235C(a)(2) of such Act, including whether com-  
11 plying with subparagraphs (A) and (B) of such sec-  
12 tion 235C(a)(2) has caused delays in the processing  
13 of such aliens;

14           (3) the number of employment authorizations  
15 revoked due to an alien's failure to comply with the  
16 requirements under section 235B(f)(5)(B) of the  
17 Immigration and Nationality Act, as added by sec-  
18 tion 141, or for any other reason, along with the ar-  
19 ticulated basis; and

20           (4) the average time for the revocation of an  
21 employment authorization if an alien is authorized to  
22 work under section 235C of the Immigration and  
23 Nationality Act and is subsequently ordered re-  
24 moved.

1 **SEC. 602. LEGAL ACCESS IN CUSTODIAL SETTINGS.**

2 Not later than 180 days after the date of the enact-  
3 ment of this Act, and annually thereafter, the Secretary  
4 shall submit a report to the appropriate committees of  
5 Congress and to the public regarding alien access to legal  
6 representation and consultation in custodial settings, in-  
7 cluding—

8 (1) the total number of aliens who secured or  
9 failed to secure legal representation pursuant to sec-  
10 tion 235(b)(1)(B)(iv)(V) of the Immigration and  
11 Nationality Act, as added by section 511, before the  
12 protection determination under section  
13 235(b)(1)(B)(i) of such Act, including the disposi-  
14 tion of such alien's interview;

15 (2) the total number of aliens who waived the  
16 72-hour period pursuant to section  
17 235(b)(1)(B)(iv)(IV)(bb) of such Act, including the  
18 disposition of the alien's protection determination  
19 pursuant to section 235(b)(1)(B)(i) of such Act;

20 (3) the total number of aliens who required a  
21 verbal interpretation of the information about  
22 screenings and interviews pursuant to section  
23 235(b)(1)(B)(iv) of such Act, disaggregated by the  
24 number of aliens who received or did not receive  
25 such an interpretation, respectively, pursuant to sec-  
26 tion 235(b)(1)(B)(iv)(III) of such Act, including the

1 disposition of their respective protection determina-  
2 tions pursuant to section 235(b)(1)(B)(i) of such  
3 Act;

4 (4) the total number of aliens who received in-  
5 formation, either verbally or in writing, in their na-  
6 tive language; and

7 (5) whether such policies and procedures with  
8 respect to access provided in section  
9 235(b)(1)(B)(iv) have been made available publicly.

10 **SEC. 603. CREDIBLE FEAR AND PROTECTION DETERMINA-**  
11 **TIONS.**

12 Not later than 1 year and 60 days after the date of  
13 the enactment of this Act, and annually thereafter, the  
14 Director of U.S. Citizenship and Immigration Services  
15 shall submit a report to the appropriate committees of  
16 Congress and to the public that sets forth—

17 (1) the number of aliens who requested or re-  
18 ceived a protection determination pursuant to sec-  
19 tion 235(b)(1)(B) of the Immigration and Nation-  
20 ality Act (8 U.S.C. 1225(b)(1)(B));

21 (2) the number of aliens who requested or re-  
22 ceived a protection determination pursuant to sec-  
23 tion 235B(b) of such Act, as added by section 141;

24 (3) the number of aliens described in para-  
25 graphs (1) and (2) who are subject to an asylum ex-

1       ception under section 235(b)(1)(B)(vi) of such Act,  
2       disaggregated by specific asylum exception;

3           (4) the number of aliens for whom an asylum  
4       officer determined that an alien may be eligible for  
5       a waiver under section 235(b)(1)(B)(vi) of such Act  
6       and did not apply such asylum exception to such  
7       alien;

8           (5) the number of aliens described in paragraph  
9       (1) or (2) who—

10           (A) received a positive screening or deter-  
11       mination; or

12           (B) received a negative screening or deter-  
13       mination;

14           (6) the number of aliens described in paragraph  
15       (5)(B) who requested reconsideration or appeal of a  
16       negative screening and the disposition of such re-  
17       quests;

18           (7) the number of aliens described in paragraph  
19       (6) who, upon reconsideration—

20           (A) received a positive screening or deter-  
21       mination, as applicable; or

22           (B) received a negative screening or deter-  
23       mination, as applicable;

1 (8) the number of aliens described in paragraph  
2 (5)(B) who appealed a decision subsequent to a re-  
3 quest for reconsideration;

4 (9) the number of aliens described in paragraph  
5 (5)(B) who, upon appeal of a decision, disaggregated  
6 by whether or not such alien requested reconsider-  
7 ation of a negative screening—

8 (A) received a positive screening or deter-  
9 mination, as applicable; or

10 (B) received negative screening or deter-  
11 mination, as applicable; and

12 (10) the number of aliens who withdraw their  
13 application for admission, including—

14 (A) whether such alien could read or write;

15 (B) whether the withdrawal occurred in  
16 the alien's native language;

17 (C) the age of such alien; and

18 (D) the Federal agency or component that  
19 processed such withdrawal.

20 **SEC. 604. PUBLICATION OF OPERATIONAL STATISTICS BY**  
21 **U.S. CUSTOMS AND BORDER PROTECTION.**

22 (a) IN GENERAL.—Beginning in the second calendar  
23 month beginning after the date of the enactment of this  
24 Act, the Commissioner for U.S. Customs and Border Pro-  
25 tection shall publish, not later than the seventh day of



1 each month, on a publicly available website of the Depart-  
2 ment, information from the previous month relating to—

3 (1) the number of alien encounters,  
4 disaggregated by—

5 (A) whether such aliens are admissible or  
6 inadmissible, including the basis for such deter-  
7 minations;

8 (B) the U.S. Border Patrol sector and  
9 U.S. Customs and Border Protection field office  
10 that recorded the encounter;

11 (C) any outcomes recorded in the terrorist  
12 screening database (as such term is defined in  
13 section 2101 of the Homeland Security Act of  
14 2002 (6 U.S.C. 621)), including—

15 (i) whether the alien is found to be in-  
16 admissible or removeable due to a specific  
17 ground relating to terrorism;

18 (ii) the alien's country of nationality,  
19 race or ethnic identification, and age; and

20 (iii) whether the alien's alleged ter-  
21 rorism is related to domestic or inter-  
22 national actors, if available;

23 (D) aliens with active Federal or State  
24 warrants for arrest in the United States and

1 the nature of the crimes justifying such war-  
2 rants;

3 (E) the nationality of the alien;

4 (F) whether the alien encountered is a sin-  
5 gle adult, an individual in a family unit, an un-  
6 accompanied child, or an accompanied child;

7 (G) the average time the alien remained in  
8 custody, disaggregated by demographic infor-  
9 mation;

10 (H) the processing disposition of each alien  
11 described in this paragraph upon such alien's  
12 release from the custody of U.S. Customs and  
13 Border Protection, disaggregated by nationality;

14 (I) the number of aliens who are paroled  
15 pursuant to section 212(d)(5) of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1182(d)(5)),  
17 disaggregated by geographic region or sector;

18 (J) the recidivism rate of aliens described  
19 in this paragraph, including the definition of  
20 "recidivism" and notice of any changes to such  
21 definition; and

22 (K) aliens who have a confirmed gang af-  
23 filiation, including—

1 (i) whether such alien was determined  
2 to be inadmissible or removable due to  
3 such affiliation;

4 (ii) the specific gang affiliation al-  
5 leged;

6 (iii) the basis of such allegation; and

7 (iv) the Federal agency or component  
8 that made such allegation or determina-  
9 tion;

10 (2) seizures, disaggregated by the U.S. Border  
11 Patrol sector and U.S. Customs and Border Protec-  
12 tion field office that recorded the encounter, of—

13 (A) narcotics;

14 (B) firearms, whether inbound or out-  
15 bound, including whether such firearms were  
16 manufactured in the United States, if known;

17 (C) monetary instruments, whether in-  
18 bound and outbound; and

19 (D) other specifically identified contra-  
20 band;

21 (3) with respect to border emergency authority  
22 described in section 244A of the Immigration and  
23 Nationality Act, as added by section 301—

24 (A) the number of days such authority was  
25 in effect;

1 (B) the number of encounters (as defined  
2 in section 244A(i)(3)) of such Act,  
3 disaggregated by U.S. Border Patrol sector and  
4 U.S. Customs and Border Patrol field office;

5 (C) the number of summary removals  
6 made under such authority;

7 (D) the number of aliens who manifested  
8 a fear of persecution or torture and were  
9 screened for withholding of removal or for pro-  
10 tection under the Convention Against Torture,  
11 and the disposition of each such screening, in-  
12 cluding the processing disposition or outcome;

13 (E) the number of aliens who were  
14 screened at a port of entry in a safe and orderly  
15 manner each day such authority was in effect,  
16 including the processing disposition or outcome;

17 (F) whether such authority was exercised  
18 under subparagraph (A), (B)(i), or (B)(ii) of  
19 section 244A(b)(3) of such Act;

20 (G) a public description of all the methods  
21 by which the Secretary determines if an alien  
22 may be screened in a safe and orderly manner;

23 (H) the total number of languages that are  
24 available for such safe and orderly process;

1 (I) the number of aliens who were returned  
2 to a country that is not their country of nation-  
3 ality;

4 (J) the number of aliens who were re-  
5 turned to any country without a humanitarian  
6 or protection determination during the use of  
7 such authority;

8 (K) the number of United States citizens  
9 who were inadvertently detained, removed, or  
10 affected by such border emergency authority;

11 (L) the number of individuals who have  
12 lawful permission to enter the United States  
13 and were inadvertently detained, removed, or  
14 affected by such border emergency authority;

15 (M) a summary of the impact to lawful  
16 trade and travel during the use of such border  
17 emergency authority, disaggregated by port of  
18 entry;

19 (N) the disaggregation of the information  
20 described in subparagraphs (C), (D), (E), (I),  
21 (J), (K), and (L) by the time the alien re-  
22 mained in custody and by citizenship and family  
23 status, including—

24 (i) single adults;

25 (ii) aliens traveling in a family unit;

1 (iii) unaccompanied children;

2 (iv) accompanied children;

3 (4) information pertaining to agricultural in-  
4 spections;

5 (5) border rescues and mortality data;

6 (6) information regarding trade and travel; and

7 (7) with respect to aliens who were transferred  
8 from the physical custody of a State or Federal law  
9 enforcement agency or other State agency to the  
10 physical custody of a Federal agency or compo-  
11 nent—

12 (A) the specific States concerned;

13 (B) whether such alien had initially been  
14 charged with a State crime before the State  
15 transferred such alien to such Federal agency  
16 or component; and

17 (C) the underlying State crime with which  
18 the alien was charged.

19 (b) TOTALS.—The information described in sub-  
20 section (a) shall include the total amount of each element  
21 described in each such paragraph in the relevant unit of  
22 measurement for reporting month.

23 (c) DEFINITIONS.—The monthly publication required  
24 under subsection (a) shall—

1           (1) include the definition of all terms used by  
2           the Commissioner; and

3           (2) specifically note whether the definition of  
4           any term has been changed.

5           (d) **PROTECTION OF PERSONALLY IDENTIFIABLE IN-**  
6 **FORMATION.**—In preparing each publication pursuant to  
7 subsection (a), the Secretary shall—

8           (1) protect any personally identifiable informa-  
9           tion associated with aliens described in subsection  
10          (a); and

11          (2) comply with all applicable privacy laws.

12 **SEC. 605. UTILIZATION OF PAROLE AUTHORITIES.**

13          Section 602(b) of the Illegal Immigration Reform and  
14 Immigrant Responsibility Act of 1996 (8 U.S.C. 1182  
15 note) is amended to read as follows:

16          “(b) **ANNUAL REPORT TO CONGRESS.**—

17               “(1) **IN GENERAL.**—Not later than 90 days  
18 after the end of each fiscal year, the Secretary of  
19 Homeland Security shall submit a report to the  
20 Committee on the Judiciary of the Senate, the Com-  
21 mittee on Homeland Security and Governmental Af-  
22 fairs of the Senate, the Committee on the Judiciary  
23 of the House of Representatives, the Committee on  
24 Homeland Security of the House of Representatives,  
25 and the public that identifies the number of aliens

1        paroled into the United States pursuant to section  
2        212(d)(5) of the Immigration and Nationality Act (8  
3        U.S.C. 1182(d)(5)).

4            “(2) CONTENTS.—Each report required under  
5        paragraph (1) shall include—

6            “(A) the total number of aliens—

7            “(i) who submitted applications for  
8        parole;

9            “(ii) whose parole applications were  
10       approved; or

11           “(iii) who were granted parole into  
12       the United States during the fiscal year  
13       immediately preceding the fiscal year dur-  
14       ing which such report is submitted;

15           “(B) the elements described in subpara-  
16       graph (A), disaggregated by—

17           “(i) citizenship or nationality;

18           “(ii) demographic categories;

19           “(iii) the component or subcomponent  
20       of the Department of Homeland Security  
21       that granted such parole;

22           “(iv) the parole rationale or class of  
23       admission, if applicable; and

24           “(v) the sector, field office, area of re-  
25       sponsibility, or port of entry where such



1 parole was requested, approved, or grant-  
2 ed;

3 “(C) the number of aliens who requested  
4 re-parole, disaggregated by the elements de-  
5 scribed in subparagraph (B), and the number of  
6 denials of re-parole requests;

7 “(D) the number of aliens whose parole  
8 was terminated for failing to abide by the terms  
9 of parole, disaggregated by the elements de-  
10 scribed in subparagraph (B);

11 “(E) for any parole rationale or class of  
12 admission which requires sponsorship, the num-  
13 ber of sponsor petitions which were—

14 “(i) confirmed;

15 “(ii) confirmed subsequent to a non-  
16 confirmation; or

17 “(iii) denied;

18 “(F) for any parole rationale or class of  
19 admission in which a foreign government has  
20 agreed to accept returns of third country na-  
21 tionals, the number of returns of such third  
22 country nationals such foreign government has  
23 accepted;

1           “(G) the number of aliens who filed for  
2           asylum after being paroled into the United  
3           States; and

4           “(H) the number of aliens described in  
5           subparagraph (G) who were granted employ-  
6           ment authorization based solely on a grant of  
7           parole.

8           “(3) PROTECTION OF PERSONALLY IDENTIFI-  
9           ABLE INFORMATION.—In preparing each report pur-  
10          suant to paragraph (1), the Secretary shall—

11           “(A) protect any personally identifiable in-  
12          formation associated with aliens described in  
13          paragraph (1); and

14           “(B) comply with all applicable privacy  
15          laws.”.

16 **SEC. 606. ACCOUNTABILITY IN PROVISIONAL REMOVAL**  
17 **PROCEEDINGS.**

18          (a) IN GENERAL.—Not later than 1 year and 30 days  
19          after the date of the enactment of this Act, the Secretary  
20          shall submit a report to the appropriate committees of  
21          Congress and the public regarding the implementation of  
22          sections 235B and 240D of the Immigration and Nation-  
23          ality Act, as added by sections 3141 and 3142 during the  
24          previous 12-month period.

1 (b) CONTENTS.—Each report required under sub-  
2 section (a) shall include—

3 (1) the number of aliens processed pursuant to  
4 section 235B(b) of the Immigration and Nationality  
5 Act, disaggregated by—

6 (A) whether the alien was a single adult or  
7 a member of a family unit;

8 (B) the number of aliens who—

9 (i) were provided proper service and  
10 notice upon release from custody pursuant  
11 to section 235B(b)(2) of such Act; or

12 (ii) were not given such proper service  
13 and notice;

14 (C) the number of aliens who received a  
15 protection determination interview pursuant to  
16 section 235B(c) of such Act within the 90-day  
17 period required under section 235B(b)(3)(A) of  
18 such Act;

19 (D) the number of aliens described in sub-  
20 paragraph (C)—

21 (i) who retained legal counsel;

22 (ii) who received a positive protection  
23 determination;

24 (iii) who received a negative protection  
25 determination;

- 1 (iv) for those aliens described in  
2 clause (iii), the number who—
- 3 (I) requested reconsideration;  
4 (II) whether such reconsideration  
5 resulted in approval or denial;  
6 (III) whether an alien upon re-  
7 ceiving a negative motion for reconsid-  
8 eration filed an appeal;  
9 (IV) who appealed a negative de-  
10 cision without filing for reconsider-  
11 ation;  
12 (V) whether the appeal resulted  
13 in approval or denial, disaggregated  
14 by the elements in subclauses (III)  
15 and (IV); and  
16 (VI) whether the alien, upon re-  
17 ceiving a negative decision as de-  
18 scribed in subclauses (III) and (V),  
19 was removed from the United States  
20 upon receiving such negative decision;
- 21 (v) who absconded during such pro-  
22 ceedings; and  
23 (vi) who failed to receive proper serv-  
24 ice;

1 (E) the number of aliens who were proc-  
2 essed pursuant to section 235B(f) of such Act;  
3 and

4 (F) the number of aliens described in sub-  
5 paragraph (E) who submitted their application  
6 pursuant to section 235B(f)(2)(B)(i) of such  
7 Act;

8 (2) the average time taken by the Department  
9 of Homeland Security—

10 (A) to perform a protection determination  
11 interview pursuant to section 235B(b) of such  
12 Act;

13 (B) to serve notice of a protection deter-  
14 mination pursuant to section 235B(e) of such  
15 Act after a determination has been made pursu-  
16 ant to section 235B(b) of such Act;

17 (C) to provide an alien with a work author-  
18 ization pursuant to section 235C of such Act,  
19 as added by section 501, disaggregated by the  
20 requirements under subparagraphs (A), (B),  
21 and (C) of section 235C(a)(2) of such Act; and

22 (D) the utilization of the Alternatives to  
23 Detention program authorized under section  
24 235B(a)(3) of such Act, disaggregated by—

1 (i) types of alternatives to detention  
2 used to supervise the aliens after being re-  
3 leased from physical custody;

4 (ii) the level of compliance by the  
5 alien with the rules of the Alternatives to  
6 Detention program; and

7 (iii) the total cost of each Alternatives  
8 to Detention type;

9 (3) the number of aliens processed pursuant to  
10 section 240D(d) of such Act, disaggregated by—

11 (A) whether the alien was a single adult or  
12 a member of a family unit;

13 (B) the number of aliens who were pro-  
14 vided proper service and notice of a protection  
15 determination pursuant to section 235B(e) of  
16 such Act;

17 (C) the number of aliens who received a  
18 protection merits interview pursuant to section  
19 240D(c)(3) of such Act within the 90-day pe-  
20 riod required under section 240D(b) of such  
21 Act;

22 (D) the number of aliens who received a  
23 positive protection merits determination pursu-  
24 ant to section 240D(d)(2) of such Act;

1           (E) the number of aliens who received a  
2           negative protection merits determination pursu-  
3           ant to section 240D(d)(3) of such Act,  
4           disaggregated by the number of aliens who ap-  
5           pealed the determination pursuant to section  
6           240D(e) of such Act and who received a result  
7           pursuant to section 240D(e)(7) of such Act;

8           (F) the number of aliens who were proc-  
9           essed pursuant to section 240D of such Act  
10          who retained legal counsel;

11          (G) the number of aliens who appeared at  
12          such proceedings; and

13          (H) the number of aliens who absconded  
14          during such proceedings; and

15          (4) the average time taken by the Department  
16          of Homeland Security—

17               (A) to perform a protection merits inter-  
18               view pursuant to section 240D(d) of such Act;

19               (B) to serve notice of a protection merits  
20               determination pursuant to section 240D(d) of  
21               such Act; and

22               (C) the utilization of Alternatives to De-  
23               tention program authorized under section  
24               240D(c)(2) of such Act, disaggregated by—

1 (i) types of alternatives to detention  
2 used to supervise the aliens after being re-  
3 leased from physical custody; and

4 (ii) the level of compliance by the  
5 aliens with rules of the Alternatives to De-  
6 tention program.

7 (c) **PROTECTION OF PERSONALLY IDENTIFIABLE IN-**  
8 **FORMATION.**—In preparing each report pursuant to sub-  
9 section (a), the Secretary shall—

10 (1) protect any personally identifiable informa-  
11 tion associated with aliens described in subsection  
12 (a); and

13 (2) comply with all applicable privacy laws.

14 **SEC. 607. ACCOUNTABILITY IN VOLUNTARY REPATRIATION,**  
15 **WITHDRAWAL, AND DEPARTURE.**

16 (a) **IN GENERAL.**—Not later than 1 year and 30 days  
17 after the date of the enactment of this Act, the Secretary  
18 shall submit a report to the appropriate committees of  
19 Congress regarding the implementation of section 240G  
20 of the Immigration and Nationality Act, as added by sec-  
21 tion 144.

22 (b) **CONTENTS.**—The report required under sub-  
23 section (a) shall include the number of aliens who utilized  
24 the provisions of such section 240G, disaggregated by—

25 (1) demographic information;



1 (2) the period in which the election took place;

2 (3) the total costs of repatriation flight when  
3 compared to the cost to charter a private, commer-  
4 cial flight for such return;

5 (4) alien use of reintegration or reception pro-  
6 grams in the alien's country of nationality after re-  
7 moval from the United States;

8 (5) the number of aliens who failed to depart  
9 in compliance with section 240G(i)(2) of such Act;

10 (6) the number of aliens to which a civil penalty  
11 and a period of ineligibility was applied; and

12 (7) the number of aliens who did depart.

13 **SEC. 608. GAO ANALYSIS OF IMMIGRATION JUDGE AND ASY-**  
14 **LUM OFFICER DECISION-MAKING REGARD-**  
15 **ING ASYLUM, WITHHOLDING OF REMOVAL,**  
16 **AND PROTECTION UNDER THE CONVENTION**  
17 **AGAINST TORTURE.**

18 (a) IN GENERAL.—Not later than 2 years after the  
19 Comptroller General of the United States submits the cer-  
20 tification described in section 146(d)(3), the Comptroller  
21 General shall analyze the decision rates of immigration  
22 judges and asylum officers regarding aliens who have re-  
23 ceived a positive protection determination and have been  
24 referred to proceedings under section 240 or 240D of the

1 Immigration and Nationality Act, as applicable, to deter-  
2 mine—

3           (1) whether the Executive Office for Immigra-  
4 tion Review and U.S. Citizenship and Immigration  
5 Services have any differential in rate of decisions for  
6 cases involving asylum, withholding of removal, or  
7 protection under the Convention Against Torture  
8 and Other Cruel, Inhuman or Degrading Treatment  
9 or Punishment, done at New York December 10,  
10 1984; and

11           (2) the causes for any such differential, includ-  
12 ing any policies, procedures, or other administrative  
13 measures.

14           (b) **RECOMMENDATIONS.**—Upon completing the anal-  
15 ysis required under subsection (a), the Comptroller Gen-  
16 eral shall submit recommendations to the Director of the  
17 Executive Office for Immigration Review and the Director  
18 of U.S. Citizenship and Immigration Services regarding  
19 any administrative or procedural changes necessary to en-  
20 sure uniformity in decision-making between those agen-  
21 cies, which may not include quotas.

22 **SEC. 609. REPORT ON COUNSEL FOR UNACCOMPANIED**  
23 **ALIEN CHILDREN.**

24           (a) **IN GENERAL.**—Not later than 120 days after the  
25 date of the enactment of this Act, and annually thereafter,

1 the Secretary of Health and Human Services shall submit  
2 a report to the appropriate committees of Congress with  
3 respect to unaccompanied alien children who received ap-  
4 pointed counsel pursuant to section 235(c)(5)(B) of the  
5 William Wilberforce Trafficking Victims Protection Reau-  
6 thorization Act of 2008, as added by section 512, includ-  
7 ing—

8 (1) the number of unaccompanied alien children  
9 who obtained such counsel compared to the number  
10 of such children who did not obtain such counsel;

11 (2) the sponsorship category of unaccompanied  
12 alien children who obtained counsel;

13 (3) the age ranges of unaccompanied alien chil-  
14 dren who obtained counsel;

15 (4) the administrative appeals, if any, of unac-  
16 companied alien children who obtained counsel; and

17 (5) the case outcomes of unaccompanied alien  
18 children who obtained counsel.

19 (b) PROTECTION OF PERSONALLY IDENTIFIABLE IN-  
20 FORMATION.—In preparing each report pursuant to sub-  
21 section (a), the Secretary of Health and Human Services  
22 shall—

23 (1) protect any personally identifiable informa-  
24 tion associated with aliens described in subsection  
25 (a); and

1 (2) comply with all applicable privacy laws.

2 **SEC. 610. RECALCITRANT COUNTRIES.**

3 Section 243(d) of the Immigration and Nationality  
4 Act (8 U.S.C. 1253(d)) is amended—

5 (1) by striking “On being notified” and insert-  
6 ing the following:

7 “(1) IN GENERAL.—On being notified”; and

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

9 “(2) REPORT ON RECALCITRANT COUNTRIES.—

10 “(A) IN GENERAL.—Not later than 90  
11 days after the last day of each fiscal year, the  
12 Secretary of Homeland Security and the Sec-  
13 retary of State shall jointly—

14 “(i) prepare an unclassified annual re-  
15 port, which may include a classified annex,  
16 that includes the information described in  
17 subparagraph (C); and

18 “(ii) submit such report to Committee  
19 on Homeland Security and Governmental  
20 Affairs of the Senate; the Committee on  
21 the Judiciary of the Senate, the Committee  
22 on Foreign Relations of the Senate, the  
23 Committee on Homeland Security of the  
24 House of Representatives, the Committee  
25 on the Judiciary of the House of Rep-

1           representatives, and the Committee on For-  
2           eign Affairs of the House of Representa-  
3           tives.

4           “(B) BRIEFING.—Not later than 30 days  
5           after the date on which a report is submitted  
6           pursuant to subparagraph (A), designees of the  
7           Secretary of Homeland Security and of the Sec-  
8           retary of State shall brief the committees re-  
9           ferred to in subparagraph (A)(ii) regarding any  
10          measures taken to encourage countries to ac-  
11          cept the return of their citizens, subjects, or na-  
12          tionals, or aliens whose last habitual residence  
13          was within each such country, who have been  
14          ordered removed from the United States.

15          “(C) CONTENTS.—Each report prepared  
16          pursuant to subparagraph (A)(i) shall include—

17                  “(i) a list of all countries that—

18                          “(I) deny the acceptance of their  
19                          citizens, subjects, or nationals, or  
20                          aliens whose last habitual residence  
21                          was within such country, who have  
22                          been ordered removed to such country  
23                          from the United States; or

24                          “(II) unreasonably delay the ac-  
25                          ceptance of their citizens, subjects, or

1                   nationals, or aliens whose last habit-  
2                   ual residence was within such country,  
3                   who have been ordered removed to  
4                   such country from the United States;

5                   “(ii) for each country described in  
6                   clause (i)(II), the average length of delay  
7                   of such citizens, subjects, nationals, or  
8                   aliens acceptance into such country;

9                   “(iii) a list of the foreign countries  
10                  that have placed unreasonable limitations  
11                  upon the acceptance of their citizens, sub-  
12                  jects, or nationals, or aliens whose last ha-  
13                  bitual residence was within such country,  
14                  who have been ordered removed to such  
15                  country from the United States;

16                  “(iv) a description of the criteria used  
17                  to determine that a country described  
18                  under clause (iii) has placed such unrea-  
19                  sonable limitations;

20                  “(v) the number of aliens ordered re-  
21                  moved from the United States to a country  
22                  described in clause (i) or (iii) whose re-  
23                  moval from the United States was pending  
24                  as of the last day of the previous fiscal  
25                  year, including—

1 “(I) the number of aliens who—

2 “(aa) received a denial of a  
3 work authorization; and

4 “(bb) are not eligible to re-  
5 quest work authorization;

6 “(vi) the number of aliens ordered re-  
7 moved from the United States to a country  
8 described in clause (i) or (iii) whose re-  
9 moval from the United States was pending  
10 as of the last day of the previous fiscal  
11 year and who are being detained,  
12 disaggregated by—

13 “(I) the length of such detention;

14 “(II) the aliens who requested a  
15 review of the significant likelihood of  
16 their removal in the reasonably fore-  
17 seeable future;

18 “(III) the aliens for whom the re-  
19 quest for release under such review  
20 was denied;

21 “(IV) the aliens who remain de-  
22 tained on account of special cir-  
23 cumstances despite no significant like-  
24 lihood that such aliens will be re-  
25 moved in the foreseeable future,

1 disaggregated by the specific cir-  
2 cumstance;

3 “(V) the aliens described in sub-  
4 clause (IV) who are being detained  
5 based on a determination that they  
6 are specially dangerous;

7 “(VI) the aliens described in sub-  
8 clause (V) whose request to review the  
9 basis for their continued detention  
10 was denied;

11 “(VII) demographic categories,  
12 including part of a family unit, single  
13 adults, and unaccompanied alien chil-  
14 dren;

15 “(vii) the number of aliens referred to  
16 in clauses (i) through (iii) who—

17 “(I) have criminal convictions,  
18 disaggregated by National Crime In-  
19 formation Center code, whether mis-  
20 demeanors or felonies;

21 “(II) are considered national se-  
22 curity threats to the United States;

23 “(III) are members of a criminal  
24 gang or another organized criminal



1 organization, if found to be inadmis-  
2 sible or removable on such grounds; or

3 “(IV) have been released from  
4 U.S. Immigration and Customs En-  
5 forcement custody on an order of su-  
6 pervision and the type of supervision  
7 and compliance with such supervision,  
8 if applicable;

9 “(viii) a description of the actions  
10 taken by the Department of Homeland Se-  
11 curity and the Department of State to en-  
12 courage foreign nations to accept the re-  
13 turn of their nationals; and

14 “(ix) the total number of individuals  
15 that such jurisdiction has accepted who are  
16 not citizens, subjects, or nationals, or  
17 aliens who last habitually resided within  
18 such jurisdiction and have been removed  
19 from the United States, if any.”.

## 20 **TITLE VII—OTHER MATTERS**

### 21 **SEC. 701. SEVERABILITY.**

22 If any provision of this division, any amendment  
23 made by this division, or the application of any such provi-  
24 sion or amendment to any person or circumstance is held  
25 to be unconstitutional, the remainder of this division, the

1 amendments made by this division, and the application of  
2 such provisions or amendments to any other person or cir-  
3 cumstance shall not be affected.

4 **TITLE VIII—BUDGETARY**  
5 **EFFECTS**

6 **SEC. 801. BUDGETARY EFFECTS.**

7 (a) **STATUTORY PAYGO SCORECARDS.**—The budg-  
8 etary effects of this division shall not be entered on either  
9 PAYGO scorecard maintained pursuant to section 4(d) of  
10 the Statutory Pay-As-You-Go Act of 2010.

11 (b) **SENATE PAYGO SCORECARDS.**—The budgetary  
12 effects of this division shall not be entered on any PAYGO  
13 scorecard maintained for purposes of section 4106 of H.  
14 Con. Res. 71 (115th Congress).

15 (c) **CLASSIFICATION OF BUDGETARY EFFECTS.**—  
16 Notwithstanding Rule 3 of the Budget Scorekeeping  
17 Guidelines set forth in the joint explanatory statement of  
18 the committee of conference accompanying Conference Re-  
19 port 105–217 and section 250(c)(8) of the Balanced  
20 Budget and Emergency Deficit Control Act of 1985, the  
21 budgetary effects of this division shall not be estimated—

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

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

1           (3) for purposes of paragraph (4)(C) of section  
2           3 of the Statutory Pay-As-You-Go Act of 2010 as  
3           being included in an appropriation Act.