## 118TH CONGRESS 1ST SESSION S. 2824

AUTHENTICATED U.S. GOVERNMENT INFORMATION

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

### IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 2023

Mr. CRUZ (for himself, Mr. MCCONNELL, Mrs. BLACKBURN, Mr. COTTON, Mr. VANCE, Mr. MARSHALL, Mrs. FISCHER, Mr. SCHMITT, Mr. TUBERVILLE, Mr. KENNEDY, Mr. HAGERTY, Mr. HOEVEN, Mrs. BRITT, Mr. LEE, Mr. BUDD, Mr. DAINES, Mr. SCOTT of South Carolina, Mr. GRAHAM, Ms. LUMMIS, Mr. YOUNG, Mr. TILLIS, Mr. BARRASSO, Mr. BRAUN, Mr. CRAMER, Mr. JOHNSON, Mr. GRASSLEY, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

# A BILL

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

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

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

- 4 (a) SHORT TITLE.—This Act may be cited as the
- 5 "Secure the Border Act of 2023".
- 6 (b) TABLE OF CONTENTS.—The table of contents for

7 this Act is as follows:

Sec. 1. Short title; table of contents.

#### DIVISION A—BORDER SECURITY

- Sec. 101. Definitions.
- Sec. 102. Border wall construction.
- Sec. 103. Strengthening the requirements for barriers along the southern border.
- Sec. 104. Border and port security technology investment plan.
- Sec. 105. Border security technology program management.
- Sec. 106. U.S. Customs and Border Protection technology upgrades.
- Sec. 107. U.S. Customs and Border Protection personnel.
- Sec. 108. Anti-Border Corruption Act reauthorization.
- Sec. 109. Establishment of workload staffing models for U.S. Border Patrol and Air and Marine Operations of CBP.
- Sec. 110. Operation Stonegarden.
- Sec. 111. Air and Marine Operations flight hours.
- Sec. 112. Eradication of carrizo cane and salt cedar.
- Sec. 113. Border patrol strategic plan.
- Sec. 114. U.S. Customs and Border Protection spiritual readiness.
- Sec. 115. Restrictions on funding.
- Sec. 116. Collection of DNA and biometric information at the border.
- Sec. 117. Eradication of narcotic drugs and formulating effective new tools to address yearly losses of life; ensuring timely updates to U.S. Customs and Border Protection field manuals.
- Sec. 118. Publication by U.S. Customs and Border Protection of operational statistics.
- Sec. 119. Alien criminal background checks.
- Sec. 120. Prohibited identification documents at airport security checkpoints; notification to immigration agencies.
- Sec. 121. Prohibition against any COVID-19 vaccine mandate or adverse action against DHS employees.
- Sec. 122. CBP One app limitation.
- Sec. 123. Report on Mexican drug cartels.
- Sec. 124. GAO study on costs incurred by States to secure the southwest border.
- Sec. 125. Report by Inspector General of the Department of Homeland Security.
- Sec. 126. Offsetting authorizations of appropriations.
- Sec. 127. Report to Congress on foreign terrorist organizations.
- Sec. 128. Assessment by Inspector General of the Department of Homeland Security on the mitigation of unmanned aircraft systems at the southwest border.

# DIVISION B—IMMIGRATION ENFORCEMENT AND FOREIGN AFFAIRS

#### TITLE I—ASYLUM REFORM AND BORDER PROTECTION

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

- Sec. 110. Technical amendments.
- Sec. 111. Requirement for procedures relating to certain asylum applications.

#### TITLE II—BORDER SAFETY AND MIGRANT PROTECTION

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

# TITLE III—PREVENTING UNCONTROLLED MIGRATION FLOWS IN THE WESTERN HEMISPHERE

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

#### TITLE IV—ENSURING UNITED FAMILIES AT THE BORDER

Sec. 401. Clarification of standards for family detention.

#### TITLE V—PROTECTION OF CHILDREN

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

#### TITLE VI—VISA OVERSTAYS PENALTIES

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

#### TITLE VII—IMMIGRATION PAROLE REFORM

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

#### TITLE VIII—LEGAL WORKFORCE

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

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Sec. 815. Sense of Congress on further implementation. Sec. 816. Repealing regulations.

## 1 DIVISION A—BORDER SECURITY

## 2 SEC. 101. DEFINITIONS.

3	In	this	division:

4 (1) CBP.—The term "CBP" means U.S. Cus5 toms and Border Protection.

6 (2) COMMISSIONER.—The term "Commis7 sioner" means the Commissioner of U.S. Customs
8 and Border Protection.

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

(4) OPERATIONAL CONTROL.—The term "operational control" has the meaning given such term in
section 2(b) of the Secure Fence Act of 2006 (Public
Law 109–367; 8 U.S.C. 1701 note).

15 (5) SECRETARY.—The term "Secretary" means16 the Secretary of Homeland Security.

17 (6) SITUATIONAL AWARENESS.—The term "sit18 uational awareness" has the meaning given such
19 term in section 1092(a)(7) of the National Defense
20 Authorization Act for Fiscal Year 2017 (Public Law
21 114–328; 6 U.S.C. 223(a)(7)).

(7) UNMANNED AIRCRAFT SYSTEM.—The term
"unmanned aircraft system" has the meaning given

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

### 3 SEC. 102. BORDER WALL CONSTRUCTION.

4 (a) IN GENERAL.—

5 (1) IMMEDIATE RESUMPTION OF BORDER WALL 6 CONSTRUCTION.—Not later than seven days after 7 the date of the enactment of this Act, the Secretary 8 shall resume all activities related to the construction 9 of the border wall along the border between the 10 United States and Mexico that were underway or 11 being planned for prior to January 20, 2021.

(2) USE OF FUNDS.—To carry out this section,
the Secretary shall expend all unexpired funds appropriated or explicitly obligated for the construction
of the border wall that were appropriated or obligated, as the case may be, for use beginning on October 1, 2019.

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

(b) PLAN TO COMPLETE TACTICAL INFRASTRUCTURE AND TECHNOLOGY.—Not later than 90 days after
the date of the enactment of this Act and annually there-

after until construction of the border wall has been com-1 2 pleted, the Secretary shall submit to the appropriate con-3 gressional committees an implementation plan, including 4 annual benchmarks for the construction of 200 miles of 5 such wall and associated cost estimates for satisfying all 6 requirements of the construction of the border wall, including installation and deployment of tactical infrastruc-7 8 ture, technology, and other elements as identified by the 9 Department prior to January 20, 2021, through the ex-10 penditure of funds appropriated or explicitly obligated, as the case may be, for use, as well as any future funds ap-11 propriated or otherwise made available by Congress. 12

13 (c) DEFINITIONS.—In this section:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT15 TEES.—The term "appropriate congressional com16 mittees" means the Committee on Homeland Secu17 rity and the Committee on Appropriations of the
18 House of Representatives and the Committee on
19 Homeland Security and Governmental Affairs and
20 the Committee on Appropriations of the Senate.

(2) TACTICAL INFRASTRUCTURE.—The term
"tactical infrastructure" includes boat ramps, access
gates, checkpoints, lighting, and roads associated
with a border wall.

(3) TECHNOLOGY.—The term "technology" in cludes border surveillance and detection technology,
 including linear ground detection systems, associated
 with a border wall.

# 5 SEC. 103. STRENGTHENING THE REQUIREMENTS FOR BAR6 RIERS ALONG THE SOUTHERN BORDER.

7 Section 102 of the Illegal Immigration Reform and
8 Immigrant Responsibility Act of 1996 (Division C of Pub9 lic Law 104–208; 8 U.S.C. 1103 note) is amended—

10 (1) by amending subsection (a) to read as fol-11 lows:

"(a) IN GENERAL.—The Secretary of Homeland Se-12 13 curity shall take such actions as may be necessary (including the removal of obstacles to detection of illegal en-14 15 trants) to design, test, construct, install, deploy, integrate, and operate physical barriers, tactical infrastructure, and 16 17 technology in the vicinity of the southwest border to 18 achieve situational awareness and operational control of the southwest border and deter, impede, and detect unlaw-19 ful activity."; 20

21 (2) in subsection (b)—

(A) in the subsection heading, by striking
"FENCING AND ROAD IMPROVEMENTS" and inserting "PHYSICAL BARRIERS";

(B) in paragraph (1)—

1	(i) in the heading, by striking "FENC-
2	ING" and inserting "BARRIERS";
3	(ii) by amending subparagraph (A) to
4	read as follows:
5	"(A) Reinforced barriers.—In carrying
6	out this section, the Secretary of Homeland Se-
7	curity shall construct a border wall, including
8	physical barriers, tactical infrastructure, and
9	technology, along not fewer than 900 miles of
10	the southwest border until situational aware-
11	ness and operational control of the southwest
12	border is achieved.";
13	(iii) by amending subparagraph (B) to
14	read as follows:
15	"(B) Physical barriers and tactical
16	INFRASTRUCTURE.—In carrying out this sec-
17	tion, the Secretary of Homeland Security shall
18	deploy along the southwest border the most
19	practical and effective physical barriers, tactical
20	infrastructure, and technology available for
21	achieving situational awareness and operational
22	control of the southwest border.";
23	(iv) in subparagraph (C)—
24	(I) by amending clause (i) to
25	read as follows:

9

1	"(i) IN GENERAL.—In carrying out
2	this section, the Secretary of Homeland
3	Security shall consult with the Secretary of
4	the Interior, the Secretary of Agriculture,
5	appropriate representatives of State, Trib-
6	al, and local governments, and appropriate
7	private property owners in the United
8	States to minimize the impact on natural
9	resources, commerce, and sites of historical
10	or cultural significance for the commu-
11	nities and residents located near the sites
12	at which physical barriers, tactical infra-
13	structure, and technology are to be con-
14	structed. Such consultation may not delay
15	such construction for longer than seven
16	days."; and
17	(II) in clause (ii)—
18	(aa) in subclause (I), by
19	striking "or" after the semicolon
20	at the end;
21	(bb) by amending subclause
22	(II) to read as follows:
23	"(II) delay the transfer to the
24	United States of the possession of
25	property or affect the validity of any

1	property acquisition by the United
2	States by purchase or eminent do-
3	main, or to otherwise affect the emi-
4	nent domain laws of the United States
5	or of any State; or"; and
6	(cc) by adding at the end
7	the following new subclause:
8	"(III) create any right or liability
9	for any party."; and
10	(v) by striking subparagraph (D);
11	(C) in paragraph (2)—
12	(i) by striking "Attorney General"
13	and inserting "Secretary of Homeland Se-
14	curity'';
15	(ii) by striking "this subsection" and
16	inserting "this section"; and
17	(iii) by striking "construction of
18	fences" and inserting "the construction of
19	physical barriers, tactical infrastructure,
20	and technology';
21	(D) by amending paragraph (3) to read as
22	follows:
23	"(3) Agent safety.—In carrying out this sec-
24	tion, the Secretary of Homeland Security, when de-
25	signing, testing, constructing, installing, deploying,

1	integrating, and operating physical barriers, tactical
2	infrastructure, or technology, shall incorporate such
3	safety features into such design, test, construction,
4	installation, deployment, integration, or operation of
5	such physical barriers, tactical infrastructure, or
6	technology, as the case may be, that the Secretary
7	determines are necessary to maximize the safety and
8	effectiveness of officers and agents of the Depart-
9	ment of Homeland Security or of any other Federal
10	agency deployed in the vicinity of such physical bar-
11	riers, tactical infrastructure, or technology."; and
12	(E) in paragraph (4), by striking "this
13	subsection" and inserting "this section";
14	(3) in subsection (c)—
15	(A) by amending paragraph (1) to read as
16	follows:
17	"(1) IN GENERAL.—Notwithstanding any other
18	provision of law, the Secretary of Homeland Security
19	shall waive all legal requirements necessary to en-
20	sure the expeditious design, testing, construction, in-
20 21	sure the expeditious design, testing, construction, in- stallation, deployment, integration, operation, and
21	stallation, deployment, integration, operation, and

tiveness of such physical barriers, tactical infrastruc-

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1	ture, or technology. Any such action by the Sec-
2	retary shall be effective upon publication in the Fed-
3	eral Register.";
4	(B) by redesignating paragraph (2) as
5	paragraph (3); and
6	(C) by inserting after paragraph (1) the
7	following new paragraph:
8	"(2) NOTIFICATION.—Not later than seven
9	days after the date on which the Secretary of Home-
10	land Security exercises a waiver pursuant to para-
11	graph (1), the Secretary shall notify the Committee
12	on Homeland Security of the House of Representa-
13	tives and the Committee on Homeland Security and
14	Governmental Affairs of the Senate of such waiver.";
15	and
16	(4) by adding at the end the following new sub-
17	sections:
18	"(e) TECHNOLOGY.—In carrying out this section, the
19	Secretary of Homeland Security shall deploy along the
20	southwest border the most practical and effective tech-
21	nology available for achieving situational awareness and
22	operational control.
23	"(f) DEFINITIONS.—In this section:
24	"(1) Advanced unattended surveillance
25	SENSORS.—The term 'advanced unattended surveil-

1	lance sensors' means sensors that utilize an onboard
2	computer to analyze detections in an effort to dis-
3	cern between vehicles, humans, and animals, and ul-
4	timately filter false positives prior to transmission.
5	"(2) Operational control.—The term 'oper-
6	ational control' has the meaning given such term in
7	section 2(b) of the Secure Fence Act of 2006 (Public
8	Law 109–367; 8 U.S.C. 1701 note).
9	"(3) Physical barriers.—The term 'physical
10	barriers' includes reinforced fencing, the border wall,
11	and levee walls.
12	"(4) SITUATIONAL AWARENESS.—The term 'sit-
13	uational awareness' has the meaning given such
14	term in section $1092(a)(7)$ of the National Defense
15	Authorization Act for Fiscal Year 2017 (Public Law
16	114–328; 6 U.S.C. 223(a)(7)).
17	"(5) TACTICAL INFRASTRUCTURE.—The term
18	'tactical infrastructure' includes boat ramps, access
19	gates, checkpoints, lighting, and roads.
20	"(6) TECHNOLOGY.—The term 'technology' in-
21	cludes border surveillance and detection technology,
22	including the following:
23	"(A) Tower-based surveillance technology.
24	"(B) Deployable, lighter-than-air ground
25	surveillance equipment.

1	"(C) Vehicle and Dismount Exploitation
2	Radars (VADER).
3	"(D) 3-dimensional, seismic acoustic detec-
4	tion and ranging border tunneling detection
5	technology.
6	"(E) Advanced unattended surveillance
7	sensors.
8	"(F) Mobile vehicle-mounted and man-
9	portable surveillance capabilities.
10	"(G) Unmanned aircraft systems.
11	"(H) Tunnel detection systems and other
12	seismic technology.
13	"(I) Fiber-optic cable.
14	"(J) Other border detection, communica-
15	tion, and surveillance technology.
16	"(7) UNMANNED AIRCRAFT SYSTEM.—The term
17	'unmanned aircraft system' has the meaning given
18	such term in section 44801 of title 49, United
19	States Code.".
20	SEC. 104. BORDER AND PORT SECURITY TECHNOLOGY IN-
21	VESTMENT PLAN.
22	(a) IN GENERAL.—Not later than 180 days after the
23	date of the enactment of this Act, the Commissioner, in
24	consultation with covered officials and border and port se-
25	curity technology stakeholders, shall submit to the appro-

2	nology investment plan (in this section referred to as the
3	"plan"). The plan may include a classified annex, if appro-
4	priate.
5	(b) CONTENTS OF PLAN.—The plan shall include the
6	following:
7	(1) An analysis of security risks at and between
8	ports of entry along the northern and southern bor-
9	ders of the United States.
10	(2) An identification of capability gaps with re-
11	spect to security at and between such ports of entry
12	to be mitigated in order to—
13	(A) prevent terrorists and instruments of
14	terror from entering the United States;
15	(B) combat and reduce cross-border crimi-
16	nal activity, including—
17	(i) the transport of illegal goods, such
18	as illicit drugs; and
19	(ii) human smuggling and human
20	trafficking; and
21	(C) facilitate the flow of legal trade across
22	the southwest border.
23	(3) An analysis of current and forecast trends
24	relating to the number of aliens who—

1	(A) unlawfully entered the United States
2	by crossing the northern or southern border of
3	the United States; or
4	(B) are unlawfully present in the United
5	States.
6	(4) A description of security-related technology
7	acquisitions, to be listed in order of priority, to ad-
8	dress the security risks and capability gaps analyzed
9	and identified pursuant to paragraphs $(1)$ and $(2)$ ,
10	respectively.
11	(5) A description of each planned security-re-
12	lated technology program, including objectives, goals,
13	and timelines for each such program.
14	(6) An identification of each deployed security-
15	related technology that is at or near the end of the
16	life cycle of such technology.
17	(7) A description of the test, evaluation, mod-
18	eling, and simulation capabilities, including target
19	methodologies, rationales, and timelines, necessary
20	to support the acquisition of security-related tech-
21	nologies pursuant to paragraph (4).
22	(8) An identification and assessment of ways to
23	increase opportunities for communication and col-
24	laboration with the private sector, small and dis-
25	advantaged businesses, intragovernment entities,

1	university centers of excellence, and Federal labora-
2	
Z	tories to ensure CBP is able to engage with the mar-
3	ket for security-related technologies that are avail-
4	able to satisfy its mission needs before engaging in
5	an acquisition of a security-related technology.
6	(9) An assessment of the management of
7	planned security-related technology programs by the
8	acquisition workforce of CBP.
9	(10) An identification of ways to leverage al-
10	ready-existing acquisition expertise within the Fed-
11	eral Government.
12	(11) A description of the security resources, in-
13	cluding information security resources, required to
14	protect security-related technology from physical or
15	cyber theft, diversion, sabotage, or attack.
16	(12) A description of initiatives to—
17	(A) streamline the acquisition process of
18	CBP; and
19	(B) provide to the private sector greater
20	predictability and transparency with respect to
21	such process, including information relating to
22	the timeline for testing and evaluation of secu-
23	rity-related technology.

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

4 (14) In the case of a new acquisition leading to
5 the removal of equipment from a port of entry along
6 the northern or southern border of the United
7 States, a strategy to consult with the private sector
8 and community stakeholders affected by such re9 moval.

(15) A strategy to consult with the private sector and community stakeholders with respect to security impacts at a port of entry described in paragraph (14).

14 (16) An identification of recent technological15 advancements in the following:

16 (A) Manned aircraft sensor, communica-17 tion, and common operating picture technology.

18 (B) Unmanned aerial systems and related
19 technology, including counter-unmanned aerial
20 system technology.

21 (C) Surveillance technology, including the22 following:

- 23 (i) Mobile surveillance vehicles.
- 24 (ii) Associated electronics, including25 cameras, sensor technology, and radar.

1	(iii) Tower-based surveillance tech-
2	nology.
3	(iv) Advanced unattended surveillance
4	sensors.
5	(v) Deployable, lighter-than-air,
6	ground surveillance equipment.
7	(D) Nonintrusive inspection technology, in-
8	cluding non-x-ray devices utilizing muon tomog-
9	raphy and other advanced detection technology.
10	(E) Tunnel detection technology.
11	(F) Communications equipment, including
12	the following:
13	(i) Radios.
14	(ii) Long-term evolution broadband.
15	(iii) Miniature satellites.
16	(c) Leveraging the Private Sector.—To the ex-
17	tent practicable, the plan shall—
18	(1) leverage emerging technological capabilities,
19	and research and development trends, within the
20	public and private sectors;
21	(2) incorporate input from the private sector,
22	including from border and port security stake-
23	holders, through requests for information, industry
24	day events, and other innovative means consistent
25	with the Federal Acquisition Regulation; and

(3) identify security-related technologies that
 are in development or deployed, with or without ad aptation, that may satisfy the mission needs of CBP.
 (d) FORM.—To the extent practicable, the plan shall
 be published in unclassified form on the website of the
 Department.

7 (e) DISCLOSURE.—The plan shall include an identi8 fication of individuals not employed by the Federal Gov9 ernment, and their professional affiliations, who contrib10 uted to the development of the plan.

11 (f) UPDATE AND REPORT.—Not later than the date 12 that is two years after the date on which the plan is sub-13 mitted to the appropriate congressional committees pursu-14 ant to subsection (a) and biennially thereafter for ten 15 years, the Commissioner shall submit to the appropriate 16 congressional committees—

17 (1) an update of the plan, if appropriate; and18 (2) a report that includes—

(A) the extent to which each security-related technology acquired by CBP since the initial submission of the plan or most recent update of the plan, as the case may be, is consistent with the planned technology programs
and projects described pursuant to subsection
(b)(5); and

1	(B) the type of contract and the reason for
2	acquiring each such security-related technology.
3	(g) DEFINITIONS.—In this section:
4	(1) Appropriate congressional commit-
5	TEES.—The term "appropriate congressional com-
6	mittees" means—
7	(A) the Committee on Homeland Security
8	and the Committee on Appropriations of the
9	House of Representatives; and
10	(B) the Committee on Homeland Security
11	and Governmental Affairs and the Committee
12	on Appropriations of the Senate.
13	(2) COVERED OFFICIALS.—The term "covered
14	officials'' means—
15	(A) the Under Secretary for Management
16	of the Department;
17	(B) the Under Secretary for Science and
18	Technology of the Department; and
19	(C) the Chief Information Officer of the
20	Department.
21	(3) UNLAWFULLY PRESENT.—The term "un-
22	lawfully present" has the meaning provided such
23	term in section $212(a)(9)(B)(ii)$ of the Immigration
24	and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii)).

# 1SEC. 105. BORDER SECURITY TECHNOLOGY PROGRAM2MANAGEMENT.

3 (a) IN GENERAL.—Subtitle C of title IV of the
4 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
5 is amended by adding at the end the following new section:
6 "SEC. 437. BORDER SECURITY TECHNOLOGY PROGRAM
7 MANAGEMENT.

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

14 "(b) PLANNING DOCUMENTATION.—For each border
15 security technology acquisition program of the Depart16 ment that is determined to be a major acquisition pro17 gram, the Secretary shall—

18 "(1) ensure that each such program has a writ19 ten acquisition program baseline approved by the
20 relevant acquisition decision authority;

"(2) document that each such program is satisfying cost, schedule, and performance thresholds as
specified in such baseline, in compliance with relevant departmental acquisition policies and the Federal Acquisition Regulation; and

"(3) have a plan for satisfying program imple mentation objectives by managing contractor per formance.

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

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

3 "(1) compliance with relevant departmental ac4 quisition policies and the Federal Acquisition Regu5 lation; and

6 "(2) the effective use of taxpayer dollars.".

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

"Sec. 437. Border security technology program management.".

(c) PROHIBITION ON ADDITIONAL AUTHORIZATION
OF APPROPRIATIONS.—No additional funds are authorized to be appropriated to carry out section 437 of the
Homeland Security Act of 2002, as added by subsection
(a).

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

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

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

1	(2) with other Federal, State, Tribal, and local
2	law enforcement entities.
3	(b) Border Security Deployment Program.—
4	(1) EXPANSION.—Not later than September 30,
5	2025, the Commissioner shall—
6	(A) fully implement the Border Security
7	Deployment Program of CBP; and
8	(B) expand the integrated surveillance and
9	intrusion detection system at land ports of
10	entry along the northern and southern borders
11	of the United States.
12	(2) Authorization of appropriations.—In
13	addition to amounts otherwise authorized to be ap-
14	propriated for such purpose, there is authorized to
15	be appropriated $$33,000,000$ for fiscal years $2024$
16	and 2025 to carry out paragraph (1).
17	(c) Upgrade of License Plate Readers at
18	Ports of Entry.—
19	(1) Upgrade.—Not later than two years after
20	the date of the enactment of this Act, the Commis-
21	sioner shall upgrade all existing license plate readers
22	in need of upgrade, as determined by the Commis-
23	sioner, on the northern and southern borders of the
24	United States.

1	(2) Authorization of appropriations.—In
2	addition to amounts otherwise authorized to be ap-
3	propriated for such purpose, there is authorized to
4	be appropriated \$125,000,000 for fiscal years 2023
5	and 2024 to carry out paragraph (1).
6	SEC. 107. U.S. CUSTOMS AND BORDER PROTECTION PER-
7	SONNEL.
8	(a) RETENTION BONUS.—To carry out this section,
9	there is authorized to be appropriated up to \$100,000,000
10	to the Commissioner to provide a retention bonus to any
11	front-line U.S. Border Patrol law enforcement agent—
12	(1) whose position is equal to or below level GS-
13	12 of the General Schedule;
14	(2) who has five years or more of service with
15	the U.S. Border Patrol; and
16	(3) who commits to two years of additional
17	service with the U.S. Border Patrol upon acceptance
18	of such bonus.
19	(b) Border Patrol Agents.—Not later than Sep-
20	tember 30, 2025, the Commissioner shall hire, train, and
21	assign a sufficient number of Border Patrol agents to
22	maintain an active duty presence of not fewer than 22,000
23	full-time equivalent Border Patrol agents, who may not
24	perform the duties of processing coordinators.

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

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

- (1) conduct a review of the reasons why suchlevel was not so achieved; and
- 13 (2) not later than September 30, 2027, publish
  14 on a publicly available website of the Government
  15 Accountability Office a report relating thereto.

16 SEC. 108. ANTI-BORDER CORRUPTION ACT REAUTHORIZA-

17 **TION.** 

(a) HIRING FLEXIBILITY.—Section 3 of the AntiBorder Corruption Act of 2010 (6 U.S.C. 221; Public Law
111–376) is amended by striking subsection (b) and inserting the following new subsections:

"(b) WAIVER REQUIREMENT.—Subject to subsection
(c), the Commissioner of U.S. Customs and Border Protection shall waive the application of subsection (a)(1)—

1	"(1) to a current, full-time law enforcement of-
2	ficer employed by a State or local law enforcement
3	agency who—
4	"(A) has continuously served as a law en-
5	forcement officer for not fewer than three
6	years;
7	"(B) is authorized by law to engage in or
8	supervise the prevention, detection, investiga-
9	tion, or prosecution of, or the incarceration of
10	any person for, any violation of law, and has
11	statutory powers for arrest or apprehension;
12	and
13	"(C) is not currently under investigation,
14	has not been found to have engaged in criminal
15	activity or serious misconduct, has not resigned
16	from a law enforcement officer position under
17	investigation or in lieu of termination, and has
18	not been dismissed from a law enforcement offi-
19	cer position;
20	"(2) to a current, full-time Federal law enforce-
21	ment officer who—
22	"(A) has continuously served as a law en-
23	forcement officer for not fewer than three
24	years;

1	"(B) is authorized to make arrests, con-
2	duct investigations, conduct searches, make sei-
3	zures, carry firearms, and serve orders, war-
4	rants, and other processes;
5	"(C) is not currently under investigation,
6	has not been found to have engaged in criminal
7	activity or serious misconduct, has not resigned
8	from a law enforcement officer position under
9	investigation or in lieu of termination, and has
10	not been dismissed from a law enforcement offi-
11	cer position; and
12	"(D) holds a current Tier 4 background
13	investigation or current Tier 5 background in-
14	vestigation; or
15	"(3) to a member of the Armed Forces (or a re-
16	serve component thereof) or a veteran, if such indi-
17	vidual—
18	"(A) has served in the Armed Forces for
19	not fewer than three years;
20	"(B) holds, or has held within the past five
21	years, a Secret, Top Secret, or Top Secret/Sen-
22	sitive Compartmented Information clearance;
23	"(C) holds, or has undergone within the
24	past five years, a current Tier 4 background in-

vestigation or current Tier 5 background investigation;

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

9 "(E) was not granted any waivers to ob10 tain the clearance referred to in subparagraph
11 (B).

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

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

## 5 "SEC. 5. SUPPLEMENTAL COMMISSIONER AUTHORITY.

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

"(b) BACKGROUND INVESTIGATIONS.—An individual
who receives a waiver under section 3(b) who holds a current Tier 4 background investigation shall be subject to
a Tier 5 background investigation.

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

### 1 "SEC. 6. REPORTING.

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

9 "(1) Information relating to the number of10 waivers granted under such section 3(b).

"(2) Information relating to the percentage of
applicants who were hired after receiving such a
waiver.

"(3) Information relating to the number of instances that a polygraph was administered to an applicant who initially received such a waiver and the
results of such polygraph.

"(4) An assessment of the current impact of
such waiver authority on filling law enforcement positions at U.S. Customs and Border Protection.

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

25 "(b) ADDITIONAL INFORMATION.—The first report
26 submitted under subsection (a) shall include the following:
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1	((1) An analysis of other methods of employ-
2	ment suitability tests that detect deception and could
3	be used in conjunction with traditional background
4	investigations to evaluate potential applicants or em-
5	ployees for suitability for employment or continued
6	employment, as the case may be.
7	((2) A recommendation regarding whether a
8	test referred to in paragraph (1) should be adopted
9	by U.S. Customs and Border Protection when the
10	polygraph examination requirement is waived pursu-
11	ant to section 3(b).
12	<b>"SEC. 7. DEFINITIONS.</b>
13	"In this Act:
13 14	"In this Act: "(1) Federal law enforcement officer.—
14	"(1) Federal law enforcement officer.—
14 15	"(1) FEDERAL LAW ENFORCEMENT OFFICER.— The term 'Federal law enforcement officer' means a
14 15 16	"(1) FEDERAL LAW ENFORCEMENT OFFICER.— The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in
14 15 16 17	"(1) FEDERAL LAW ENFORCEMENT OFFICER.— The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United
14 15 16 17 18	"(1) FEDERAL LAW ENFORCEMENT OFFICER.— The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United States Code.
14 15 16 17 18 19	<ul> <li>"(1) FEDERAL LAW ENFORCEMENT OFFICER.—</li> <li>The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United States Code.</li> <li>"(2) SERIOUS MILITARY OR CIVIL OFFENSE.—</li> </ul>
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	<ul> <li>"(1) FEDERAL LAW ENFORCEMENT OFFICER.—</li> <li>The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United States Code.</li> <li>"(2) SERIOUS MILITARY OR CIVIL OFFENSE.—</li> <li>The term 'serious military or civil offense' means an</li> </ul>
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	<ul> <li>"(1) FEDERAL LAW ENFORCEMENT OFFICER.—</li> <li>The term 'Federal law enforcement officer' means a 'law enforcement officer', as such term is defined in section 8331(20) or 8401(17) of title 5, United States Code.</li> <li>"(2) SERIOUS MILITARY OR CIVIL OFFENSE.—</li> <li>The term 'serious military or civil offense' means an offense for which—</li> </ul>

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1	"(B) a punitive discharge is, or would be,
2	authorized for the same or a closely related of-
3	fense under the Manual for Court-Martial, as
4	pursuant to Army Regulation 635–200, chapter
5	14–12.
6	"(3) TIER 4; TIER 5.—The terms 'Tier 4' and
7	'Tier 5', with respect to background investigations,
8	have the meaning given such terms under the $2012$
9	Federal Investigative Standards.
10	"(4) VETERAN.—The term 'veteran' has the
11	meaning given such term in section $101(2)$ of title
12	38, United States Code.".
13	(c) POLYGRAPH EXAMINERS.—Not later than Sep-
14	tember 30, 2025, the Secretary shall increase to not fewer
15	than 150 the number of trained full-time equivalent poly-
16	graph examiners for administering polygraphs under the
17	Anti-Border Corruption Act of 2010, as amended by this
18	section.
19	SEC. 109. ESTABLISHMENT OF WORKLOAD STAFFING MOD-
20	ELS FOR U.S. BORDER PATROL AND AIR AND
21	MARINE OPERATIONS OF CBP.
22	(a) IN GENERAL.—Not later than one year after the
23	date of the enactment of this Act, the Commissioner, in
24	coordination with the Under Secretary for Management,
25	the Chief Human Capital Officer, and the Chief Financial

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

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

4 (2) Air and Marine Operations of CBP.

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

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

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

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

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

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

7 (c) Report.—

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

17 (A) The implementation of such subsection18 (a) and such paragraphs (18) and (19).

(B) Each relevant workload staffing model.
(2) DATA SOURCES AND METHODOLOGY REQUIRED.—Each report required under paragraph (1)
shall include information relating to the data sources
and methodology used to generate each relevant
staffing model.

1	(d) INSPECTOR GENERAL REVIEW.—Not later than
2	90 days after the Commissioner develops the workload
3	staffing models pursuant to subsection (a), the Inspector
4	General of the Department shall review such models and
5	provide feedback to the Secretary and the appropriate con-
6	gressional committees with respect to the degree to which
7	such models are responsive to the recommendations of the
8	Inspector General, including the following:
9	(1) Recommendations from the Inspector Gen-
10	eral's February 2019 audit.
11	(2) Any further recommendations to improve
12	such models.
13	(e) Appropriate Congressional Committees De-
14	FINED.—In this section, the term "appropriate congres-
15	sional committees" means—
16	(1) the Committee on Homeland Security of the
17	House of Representatives; and
18	(2) the Committee on Homeland Security and
19	Governmental Affairs of the Senate.
20	SEC. 110. OPERATION STONEGARDEN.
21	(a) IN GENERAL.—Subtitle A of title XX of the
22	Homeland Security Act of 2002 (6 U.S.C. 601 et seq.)
23	is amended by adding at the end the following new section:

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#### 1 "SEC. 2010. OPERATION STONEGARDEN.

2	"(a) ESTABLISHMENT.—There is established in the
3	Department a program to be known as 'Operation
4	Stonegarden', under which the Secretary, acting through
5	the Administrator, shall make grants to eligible law en-
6	forcement agencies, through State administrative agen-
7	cies, to enhance border security in accordance with this
8	section.
9	"(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
10	ceive a grant under this section, a law enforcement agency
11	shall—
12	"(1) be located in—
13	"(A) a State bordering Canada or Mexico;
14	or
15	"(B) a State or territory with a maritime
16	border;
17	"(2) be involved in an active, ongoing, U.S.
18	Customs and Border Protection operation coordi-
19	nated through a U.S. Border Patrol sector office;
20	and
21	"(3) have an agreement in place with U.S. Im-
22	migration and Customs Enforcement to support en-
23	forcement operations.
24	"(c) PERMITTED USES A recipient of a grant
25	under this section may use such grant for costs associated
26	with the following:

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

3 "(2) Personnel, including overtime and backfill,
4 in support of enhanced border law enforcement ac5 tivities.

6 "(3) Any activity permitted for Operation 7 Stonegarden under the most recent fiscal year De-8 partment of Homeland Security's Homeland Secu-9 rity Grant Program Notice of Funding Opportunity. 10 "(d) PERIOD OF PERFORMANCE.—The Secretary 11 shall award grants under this section to grant recipients 12 for a period of not fewer than 36 months.

"(e) NOTIFICATION.—Upon denial of a grant to a law enforcement agency, the Administrator shall provide written notice to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, including the reasoning for such denial.

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

24 "(1) information on the expenditure of grants25 made under this section by each grant recipient; and

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

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

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

"(a) GRANTS AUTHORIZED.—The Secretary, through
the Administrator, may award grants under sections 2003,
2004, 2009, and 2010 to State, local, and Tribal governments, as appropriate.".

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

"Sec. 2010. Operation Stonegarden.".

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

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

1	(b) UNMANNED AIRCRAFT SYSTEMS.—The Sec-
2	retary, after coordination with the Administrator of the
3	Federal Aviation Administration, shall ensure that Air and
4	Marine Operations operate unmanned aircraft systems on
5	the southern border of the United States for not less than
6	24 hours per day.
7	(c) PRIMARY MISSIONS.—The Commissioner shall
8	ensure the following:
9	(1) The primary missions for Air and Marine
10	Operations are to directly support the following:
11	(A) U.S. Border Patrol activities along the
12	borders of the United States.
13	(B) Joint Interagency Task Force South
14	and Joint Task Force East operations in the
15	transit zone.
16	(2) The Executive Assistant Commissioner of
17	Air and Marine Operations assigns the greatest pri-
18	ority to support missions specified in paragraph $(1)$ .
19	(d) HIGH DEMAND FLIGHT HOUR REQUIRE-
20	MENTS.—The Commissioner shall—
21	(1) ensure that U.S. Border Patrol Sector
22	Chiefs identify air support mission-critical hours;
23	and
24	(2) direct Air and Marine Operations to sup-
25	port requests from such Sector Chiefs as a compo-

1	nent of the primary mission of Air and Marine Op-
2	erations in accordance with subsection $(c)(1)(A)$ .
3	(e) Contract Air Support Authorizations.—
4	The Commissioner shall contract for air support mission-
5	critical hours to meet the requests for such hours, as iden-
6	tified pursuant to subsection (d).
7	(f) Small Unmanned Aircraft Systems.—
8	(1) IN GENERAL.—The Chief of the U.S. Bor-
9	der Patrol shall be the executive agent with respect
10	to the use of small unmanned aircraft by CBP for
11	the purposes of the following:
12	(A) Meeting the unmet flight hour oper-
13	ational requirements of the U.S. Border Patrol.
14	(B) Achieving situational awareness and
15	operational control of the borders of the United
16	States.
17	(2) COORDINATION.—In carrying out para-
18	graph (1), the Chief of the U.S. Border Patrol shall
19	coordinate—
20	(A) flight operations with the Adminis-
21	trator of the Federal Aviation Administration to
22	ensure the safe and efficient operation of the
23	national airspace system; and

1	(B) with the Executive Assistant Commis-
2	sioner for Air and Marine Operations of CBP
3	to—
4	(i) ensure the safety of other CBP
5	aircraft flying in the vicinity of small un-
6	manned aircraft operated by the U.S. Bor-
7	der Patrol; and
8	(ii) establish a process to include data
9	from flight hours in the calculation of got
10	away statistics.
11	(3) Conforming Amendment.—Paragraph (3)
12	of section 411(e) of the Homeland Security Act of
13	2002 (6 U.S.C. 211(e)) is amended—
14	(A) in subparagraph (B), by striking
15	"and" after the semicolon at the end;
16	(B) by redesignating subparagraph (C) as
17	subparagraph (D); and
18	(C) by inserting after subparagraph (B)
19	the following new subparagraph:
20	"(C) carry out the small unmanned air-
21	craft (as such term is defined in section 44801
22	of title 49, United States Code) requirements
23	pursuant to subsection (f) of section 111 of the
24	Secure the Border Act of 2023; and".

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

9 (h) DEFINITIONS.—In this section:

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

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

20 sec. 112. Eradication of carrizo cane and salt21cedar.

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

carrizo cane plant and any salt cedar along the Rio
 Grande River that impedes border security operations.
 Such eradication shall be completed—

4 (1) by not later than September 30, 2027, ex5 cept for required maintenance; and

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

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

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

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

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

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

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

(1) A consideration of Border Patrol Capability
Gap Analysis reporting, Border Security Improvement Plans, and any other strategic document authored by the U.S. Border Patrol to address security
gaps between ports of entry, including efforts to
mitigate threats identified in such analyses, plans,
and documents.

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

21 (3) Information relating to efforts by U.S. Bor22 der Patrol to—

23 (A) increase situational awareness, includ24 ing—

25 (i) surveillance capabilities, such as26 capabilities developed or utilized by the

1	Department of Defense, and any appro-
2	priate technology determined to be excess
3	by the Department of Defense; and
4	(ii) the use of manned aircraft and
5	unmanned aircraft;
6	(B) detect and prevent terrorists and in-
7	struments of terrorism from entering the
8	United States;
9	(C) detect, interdict, and disrupt between
10	ports of entry aliens unlawfully present in the
11	United States;
12	(D) detect, interdict, and disrupt human
13	smuggling, human trafficking, drug trafficking,
14	and other illicit cross-border activity;
15	(E) focus intelligence collection to disrupt
16	transnational criminal organizations outside of
17	the international and maritime borders of the
18	United States; and
19	(F) ensure that any new border security
20	technology can be operationally integrated with
21	existing technologies in use by the Department.
22	(4) Information relating to initiatives of the De-
23	partment with respect to operational coordination,
24	including any relevant task forces of the Depart-
25	ment.

1	(5) Information gathered from the lessons
2	learned by the deployments of the National Guard to
3	the southern border of the United States.
4	(6) A description of cooperative agreements re-
5	lating to information sharing with State, local, Trib-
6	al, territorial, and other Federal law enforcement
7	agencies that have jurisdiction on the borders of the
8	United States.
9	(7) Information relating to border security in-
10	formation received from the following:
11	(A) State, local, Tribal, territorial, and
12	other Federal law enforcement agencies that
13	have jurisdiction on the borders of the United
14	States or in the maritime environment.
15	(B) Border community stakeholders, in-
16	cluding representatives from the following:
17	(i) Border agricultural and ranching
18	organizations.
19	(ii) Business and civic organizations.
20	(iii) Hospitals and rural clinics within
21	150 miles of the borders of the United
22	States.
23	(iv) Victims of crime committed by
24	aliens unlawfully present in the United
25	States.

1 Victims impacted by drugs,  $(\mathbf{v})$ 2 transnational criminal organizations, car-3 tels, gangs, or other criminal activity. 4 (vi) Farmers, ranchers, and property 5 owners along the border. 6 (vii) Other individuals negatively im-7 pacted by illegal immigration. 8 (8) Information relating to the staffing require-9 ments with respect to border security for the De-10 partment. 11 (9) A prioritized list of Department research and development objectives to enhance the security 12 13 of the borders of the United States. 14 (10) An assessment of training programs, in-15 cluding such programs relating to the following: 16 (A) Identifying and detecting fraudulent 17 documents. 18 (B) Understanding the scope of CBP en-19 forcement authorities and appropriate use of 20 force policies. 21 (C) Screening, identifying, and addressing 22 vulnerable populations, such as children and

victims of human trafficking.

23

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

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

#### 17 SEC. 115. RESTRICTIONS ON FUNDING.

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

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

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

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

## 11 SEC. 116. COLLECTION OF DNA AND BIOMETRIC INFORMA12 TION AT THE BORDER.

Not later than 14 days after the date of the enactment of this Act, the Secretary shall ensure and certify to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate that CBP is fully compliant with Federal DNA and biometric collection requirements at United States land borders.

# SEC. 117. ERADICATION OF NARCOTIC DRUGS AND FORMU LATING EFFECTIVE NEW TOOLS TO ADDRESS YEARLY LOSSES OF LIFE; ENSURING TIMELY UPDATES TO U.S. CUSTOMS AND BORDER PROTECTION FIELD MANUALS.

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

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

## 1SEC. 118. PUBLICATION BY U.S. CUSTOMS AND BORDER2PROTECTION OF OPERATIONAL STATISTICS.

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

(1) The aggregate such number, and such number disaggregated by geographic regions, of such recordings and encounters, including specifications relating to whether such recordings and encounters
were at the southwest, northern, or maritime border.
(2) An identification of the Office of Field Operations field office, U.S. Border Patrol sector, or

1	Air and Marine Operations branch making each re-
2	cording or encounter.
3	(3) Information relating to whether each re-
4	cording or encounter of an alien was of a single
5	adult, an unaccompanied alien child, or an individual
6	in a family unit.
7	(4) Information relating to the processing dis-
8	position of each alien recording or encounter.
9	(5) Information relating to the nationality of
10	each alien who is the subject of each recording or
11	encounter.
12	(6) The total number of individuals included in
13	the terrorist screening database (as such term is de-
14	fined in section 2101 of the Homeland Security Act
15	of 2002 (6 U.S.C. 621)) who have repeatedly at-
16	tempted to cross unlawfully into the United States.
17	(7) The total number of individuals included in
18	the terrorist screening database who have been ap-
19	prehended, including information relating to whether
20	such individuals were released into the United States
21	or removed.
22	(b) EXCEPTIONS.—If the Commissioner of U.S. Cus-
23	toms and Border Protection in any month does not publish
24	the information required under subsection (a), or does not
25	publish such information by the date specified in such sub-

section, the Commissioner shall brief the Committee on 1 Homeland Security of the House of Representatives and 2 3 the Committee on Homeland Security and Governmental 4 Affairs of the Senate regarding the reason relating there-5 to, as the case may be, by not later than the date that 6 is two business days after the tenth day of such month. 7

(c) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

(c) CERTIFICATION.—The Secretary shall annually
submit to the Committee on Homeland Security and the
Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of
the Senate a certification that each database referred to
in subsection (b) which the Secretary accessed or sought

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

## 3 SEC. 120. PROHIBITED IDENTIFICATION DOCUMENTS AT 4 AIRPORT SECURITY CHECKPOINTS; NOTIFI5 CATION TO IMMIGRATION AGENCIES.

6 (a) IN GENERAL.—The Administrator may not ac7 cept as valid proof of identification a prohibited identifica8 tion document at an airport security checkpoint.

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

19 (c) ENTRY INTO STERILE AREAS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is found to be in violation
of any term of release under subsection (b), the Administrator may not permit such individual to enter
a sterile area.

1	(2) EXCEPTION.—An individual presenting a
2	prohibited identification document under this section
3	may enter a sterile area if the individual—
4	(A) is leaving the United States for the
5	purposes of removal or deportation; or
6	(B) presents a covered identification docu-
7	ment.
8	(d) Collection of Biometric Information From
9	CERTAIN INDIVIDUALS SEEKING ENTRY INTO THE STER-
10	ILE AREA OF AN AIRPORT.—Beginning not later than 120
11	days after the date of the enactment of this Act, the Ad-
12	ministrator shall collect biometric information from an in-
13	dividual described in subsection (e) prior to authorizing
14	such individual to enter into a sterile area.
15	(e) INDIVIDUAL DESCRIBED.—An individual de-
16	scribed in this subsection is an individual who—
17	(1) is seeking entry into the sterile area of an
18	airport;
19	(2) does not present a covered identification
20	document; and
21	(3) the Administrator cannot verify is a na-
22	tional of the United States.

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

1	shall submit biometric data collected under this section to
2	the Automated Biometric Identification System (IDENT).
3	(g) DEFINITIONS.—In this section:
4	(1) Administrator.—The term "Adminis-
5	trator" means the Administrator of the Transpor-
6	tation Security Administration.
7	(2) BIOMETRIC INFORMATION.—The term "bio-
8	metric information" means any of the following:
9	(A) A fingerprint.
10	(B) A palm print.
11	(C) A photograph, including—
12	(i) a photograph of an individual's
13	face for use with facial recognition tech-
14	nology; and
15	(ii) a photograph of any physical or
16	anatomical feature, such as a scar, skin
17	mark, or tattoo.
18	(D) A signature.
19	(E) A voice print.
20	(F) An iris image.
21	(3) COVERED IDENTIFICATION DOCUMENT.—
22	The term "covered identification document" means
23	any of the following, if the document is valid and
24	unexpired:

1	(A) A United States passport or passport
2	card.
3	(B) A biometrically secure card issued by
4	a trusted traveler program of the Department
5	of Homeland Security, including—
6	(i) Global Entry;
7	(ii) Nexus;
8	(iii) Secure Electronic Network for
9	Travelers Rapid Inspection (SENTRI);
10	and
11	(iv) Free and Secure Trade (FAST).
12	(C) An identification card issued by the
13	Department of Defense, including such a card
14	issued to a dependent.
15	(D) Any document required for admission
16	to the United States under section 211(a) of
17	the Immigration and Nationality Act (8 U.S.C.
18	1181(a)).
19	(E) An enhanced driver's license issued by
20	a State.
21	(F) A photo identification card issued by a
22	federally recognized Indian Tribe.
23	(G) A personal identity verification creden-
24	tial issued in accordance with Homeland Secu-
25	rity Presidential Directive 12.

1	(H) A driver's license issued by a province
2	of Canada.
3	(I) A Secure Certificate of Indian Status
4	issued by the Government of Canada.
5	(J) A Transportation Worker Identifica-
6	tion Credential.
7	(K) A Merchant Mariner Credential issued
8	by the Coast Guard.
9	(L) A Veteran Health Identification Card
10	issued by the Department of Veterans Affairs.
11	(M) Any other document the Administrator
12	determines, pursuant to a rulemaking in ac-
13	cordance with section 553 of title 5, United
14	States Code, will satisfy the identity verification
15	procedures of the Transportation Security Ad-
16	ministration.
17	(4) Immigration laws.—The term "immigra-
18	tion laws" has the meaning given that term in sec-
19	tion 101 of the Immigration and Nationality Act (8
20	U.S.C. 1101).
21	(5) Prohibited identification docu-
22	MENT.—The term "prohibited identification docu-
23	ment" means any of the following (or any applicable
24	successor form):

1	(A) U.S. Immigration and Customs En-
2	forcement Form I–200, Warrant for Arrest of
3	Alien.
4	(B) U.S. Immigration and Customs En-
5	forcement Form I-205, Warrant of Removal/
6	Deportation.
7	(C) U.S. Immigration and Customs En-
8	forcement Form I–220A, Order of Release on
9	Recognizance.
10	(D) U.S. Immigration and Customs En-
11	forcement Form I–220B, Order of Supervision.
12	(E) Department of Homeland Security
13	Form I–862, Notice to Appear.
14	(F) U.S. Customs and Border Protection
15	Form I–94, Arrival/Departure Record (includ-
16	ing a print-out of an electronic record).
17	(G) Department of Homeland Security
18	Form I–385, Notice to Report.
19	(H) Any document that directs an indi-
20	vidual to report to the Department of Home-
21	land Security.
22	(I) Any Department of Homeland Security
23	work authorization or employment verification
24	document.

(6) STERILE AREA.—The term "sterile area"
 has the meaning given that term in section 1540.5
 of title 49, Code of Federal Regulations, or any successor regulation.

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

8 (a) LIMITATION ON IMPOSITION OF NEW MAN9 DATE.—The Secretary may not issue any COVID-19 vac10 cine mandate unless Congress expressly authorizes such
11 a mandate.

(b) PROHIBITION ON ADVERSE ACTION.—The Secretary may not take any adverse action against a Department employee based solely on the refusal of such employee to receive a vaccine for COVID-19.

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

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

24 (2) An estimate of the cost to reinstate such25 employees.

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

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

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

(a) LIMITATION.—The Department may use the CBP
One Mobile Application or any other similar program, application, internet-based portal, website, device, or initiative only for inspection of perishable cargo.

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

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

2 Not later than 60 days after the date of the enact3 ment of this Act, Congress shall commission a report that
4 contains the following:

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

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

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

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

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

(1) Actions taken by the Department of Homeland Security that have contributed to costs described in such subsection incurred by States to secure the border in the absence of Federal action, including the termination of the Migrant Protection

Protocols and cancellation of border wall construc tion.

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

6 (3) The feasibility of a program within the De7 partment of Homeland Security to reimburse States
8 for the costs incurred in support of the Federal mis9 sion to secure the southwest border.

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

12 (a) REPORT.—Not later than one year after the date 13 of the enactment of this Act and annually thereafter for five years, the Inspector General of the Department of 14 15 Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and 16 the Committee on Homeland Security and Governmental 17 18 Affairs of the Senate a report examining the economic and 19 security impact of mass migration to municipalities and 20 States along the southwest border. Such report shall in-21 clude information regarding costs incurred by the fol-22 lowing:

(1) State and local law enforcement to securethe southwest border.

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

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

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

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

## 14 SEC. 126. OFFSETTING AUTHORIZATIONS OF APPROPRIA15 TIONS.

(a) OFFICE OF THE SECRETARY AND EMERGENCY
MANAGEMENT.—No funds are authorized to be appropriated for the Alternatives to Detention Case Management Pilot Program or the Office of the Immigration Detention Ombudsman for the Office of the Secretary and
Emergency Management of the Department of Homeland
Security.

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

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

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

7 (d) U.S. CUSTOMS AND BORDER PROTECTION.—No
8 funds are authorized to be appropriated for the Shelter
9 Services Program for U.S. Customs and Border Protec10 tion.

## SEC. 127. REPORT TO CONGRESS ON FOREIGN TERRORIST ORGANIZATIONS.

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

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

## 1SEC. 128. ASSESSMENT BY INSPECTOR GENERAL OF THE2DEPARTMENT OF HOMELAND SECURITY ON3THE MITIGATION OF UNMANNED AIRCRAFT4SYSTEMS AT THE SOUTHWEST BORDER.

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

## 18 DIVISION B-IMMIGRATION EN-

## 19 FORCEMENT AND FOREIGN

## 20 **AFFAIRS**

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

### 23 SEC. 101. SAFE THIRD COUNTRY.

24 Section 208(a)(2)(A) of the Immigration and Nation-

25 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

1	(1) by striking "if the Attorney General deter-
2	mines" and inserting "if the Attorney General or the
3	Secretary of Homeland Security determines—";
4	(2) by striking "that the alien may be removed"
5	and inserting the following:
6	"(i) that the alien may be removed";
7	(3) by striking ", pursuant to a bilateral or
8	multilateral agreement, to" and inserting "to";
9	(4) by inserting "or the Secretary, on a case by
10	case basis," before "finds that";
11	(5) by striking the period at the end and insert-
12	ing "; or"; and
13	(6) by adding at the end the following:
14	"(ii) that the alien entered, attempted to enter,
15	or arrived in the United States after transiting
16	through at least one country outside the alien's
17	country of citizenship, nationality, or last lawful ha-
18	bitual residence en route to the United States, un-
19	less—
20	"(I) the alien demonstrates that he or she
21	applied for protection from persecution or tor-
22	ture in at least one country outside the alien's
23	country of citizenship, nationality, or last lawful
24	habitual residence through which the alien
25	transited en route to the United States, and the

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

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

"(III) the only countries through which the
alien transited en route to the United States
were, at the time of the transit, not parties to
the 1951 United Nations Convention relating to
the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, or the United
Nations Convention against Torture and Other

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Cruel, Inhuman or Degrading Treatment or
 Punishment.".

#### 3 SEC. 102. CREDIBLE FEAR INTERVIEWS.

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

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

(a) IN GENERAL.—Section 208(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(A))
is amended by inserting after "section 101(a)(42)(A)" the
following: "(in accordance with the rules set forth in this
section), and is eligible to apply for asylum under subsection (a)".

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

1	(1) by striking "or who arrives in the United	
2	States (whether or not at a designated port of ar-	
3	rival and including an alien who is brought to the	
4	United States after having been interdicted in inter-	
5	national or United States waters),"; and	
6	(2) by inserting after "United States" the fol-	
7	lowing: "and has arrived in the United States at a	
8	8 port of entry (including an alien who is brought t	
9	the United States after having been interdicted in	
10	) international or United States waters),".	
11	SEC. 104. EXCEPTIONS.	
12	Paragraph (2) of section 208(b) of the Immigration	
13	and Nationality Act (8 U.S.C. 1158(b)(2)) is amended to	
14	read as follows:	
15	"(2) EXCEPTIONS.—	
16	"(A) IN GENERAL.—Paragraph (1) shall	
17	not apply to an alien if the Secretary of Home-	
18	land Security or the Attorney General deter-	
19	mines that—	
20	"(i) the alien ordered, incited, as-	
21	sisted, or otherwise participated in the per-	
22	secution of any person on account of race,	
23	religion, nationality, membership in a par-	
24	ticular social group, or political opinion;	

"(ii) the alien has been convicted of 1 2 any felony under Federal, State, tribal, or 3 local law; "(iii) the alien has been convicted of 4 any misdemeanor offense under Federal, 5 6 State, tribal, or local law involving— 7 "(I) the unlawful possession or 8 use of an identification document, au-9 thentication feature, or false identi-10 fication document (as those terms and 11 phrases are defined in the jurisdiction 12 where the conviction occurred), unless 13 the alien can establish that the convic-14 tion resulted from circumstances 15 showing that— "(aa) the document or fea-16 17 ture was presented before board-18 ing a common carrier; 19 "(bb) the document or fea-20 ture related to the alien's eligi-21 bility to enter the United States; 22 "(cc) the alien used the doc-23 ument or feature to depart a 24 country wherein the alien has

claimed a fear of persecution;

-	charmed a real of persecution,
2	and
3	"(dd) the alien claimed a
4	fear of persecution without delay
5	upon presenting himself or her-
6	self to an immigration officer
7	upon arrival at a United States
8	port of entry;
9	"(II) the unlawful receipt of a
10	Federal public benefit (as defined in
11	section 401(c) of the Personal Re-
12	sponsibility and Work Opportunity
13	Reconciliation Act of 1996 (8 U.S.C.
14	1611(c))), from a Federal entity, or
15	the unlawful receipt of similar public
16	benefits from a State, tribal, or local
17	entity; or
18	"(III) possession or trafficking of
19	a controlled substance or controlled

substance paraphernalia,

phrases are defined under the law of

the jurisdiction where the conviction

occurred, other than a single offense

involving possession for one's own use

of 30 grams or less of marijuana (as

as

those

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1 marijuana is defined under the law of 2 the jurisdiction where the conviction 3 occurred); "(iv) the alien has been convicted of 4 5 an offense arising under paragraph (1)(A)6 or (2) of section 274(a), or under section 7 276:8 "(v) the alien has been convicted of a 9 Federal, State, tribal, or local crime that 10 the Attorney General or Secretary of 11 Homeland Security knows, or has reason 12 to believe, was committed in support, pro-13 motion, or furtherance of the activity of a 14 criminal street gang (as defined under the 15 law of the jurisdiction where the conviction 16 occurred or in section 521(a) of title 18, 17 United States Code); 18 "(vi) the alien has been convicted of 19 an offense for driving while intoxicated or 20 impaired, as those terms are defined under

the law of the jurisdiction where the con-

viction occurred (including a conviction for

driving while under the influence of or im-

paired by alcohol or drugs), without regard

to whether the conviction is classified as a

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1	misdemeanor or felony under Federal,
2	State, tribal, or local law, in which such in-
3	toxicated or impaired driving was a cause
4	of serious bodily injury or death of another
5	person;
6	"(vii) the alien has been convicted of
7	more than one offense for driving while in-
8	toxicated or impaired, as those terms are
9	defined under the law of the jurisdiction
10	where the conviction occurred (including a
11	conviction for driving while under the in-
12	fluence of or impaired by alcohol or drugs),
13	without regard to whether the conviction is
14	classified as a misdemeanor or felony
15	under Federal, State, tribal, or local law;
16	"(viii) the alien has been convicted of
17	a crime—
18	"(I) that involves conduct
19	amounting to a crime of stalking;
20	"(II) of child abuse, child ne-
21	glect, or child abandonment; or
22	"(III) that involves conduct
23	amounting to a domestic assault or
24	battery offense, including—

1	"(aa) a misdemeanor crime
2	of domestic violence, as described
3	in section $921(a)(33)$ of title 18,
4	United States Code;
5	"(bb) a crime of domestic vi-
6	olence, as described in section
7	40002(a)(12) of the Violence
8	Against Women Act of 1994 (34
9	U.S.C. 12291(a)(12)); or
10	"(cc) any crime based on
11	conduct in which the alien har-
12	assed, coerced, intimidated, vol-
13	untarily or recklessly used (or
14	threatened to use) force or vio-
15	lence against, or inflicted phys-
16	ical injury or physical pain, how-
17	ever slight, upon a person—
18	"(AA) who is a current
19	or former spouse of the
20	alien;
21	"(BB) with whom the
22	alien shares a child;
23	"(CC) who is cohabi-
24	tating with, or who has

	19
1	cohabitated with, the alien
2	as a spouse;
3	"(DD) who is similarly
4	situated to a spouse of the
5	alien under the domestic or
6	family violence laws of the
7	jurisdiction where the of-
8	fense occurred; or
9	"(EE) who is protected
10	from that alien's acts under
11	the domestic or family vio-
12	lence laws of the United
13	States or of any State, tribal
14	government, or unit of local
15	government;
16	"(ix) the alien has engaged in acts of
17	battery or extreme cruelty upon a person
18	and the person—
19	"(I) is a current or former
20	spouse of the alien;
21	"(II) shares a child with the
22	alien;
23	"(III) cohabitates or has
24	cohabitated with the alien as a spouse;

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1	"(IV) is similarly situated to a
2	spouse of the alien under the domestic
3	or family violence laws of the jurisdic-
4	tion where the offense occurred; or
5	"(V) is protected from that
6	alien's acts under the domestic or
7	family violence laws of the United
8	States or of any State, tribal govern-
9	ment, or unit of local government;
10	"(x) the alien, having been convicted
11	by a final judgment of a particularly seri-
12	ous crime, constitutes a danger to the com-
13	munity of the United States;
14	"(xi) there are serious reasons for be-
15	lieving that the alien has committed a seri-
16	ous nonpolitical crime outside the United
17	States prior to the arrival of the alien in
18	the United States;
19	"(xii) there are reasonable grounds
20	for regarding the alien as a danger to the
21	security of the United States;
22	"(xiii) the alien is described in sub-
23	clause (I), (II), (III), (IV), or (VI) of sec-
24	tion $212(a)(3)(B)(i)$ or section
25	237(a)(4)(B) (relating to terrorist activ-

1	ity), unless, in the case only of an alien in-
2	admissible under subclause (IV) of section
3	212(a)(3)(B)(i), the Secretary of Home-
4	land Security or the Attorney General de-
5	termines, in the Secretary's or the Attor-
6	ney General's discretion, that there are not
7	reasonable grounds for regarding the alien
8	as a danger to the security of the United
9	States;
10	"(xiv) the alien was firmly resettled in
11	another country prior to arriving in the
12	United States; or
13	"(xv) there are reasonable grounds for
14	concluding the alien could avoid persecu-
15	tion by relocating to another part of the
16	alien's country of nationality or, in the
17	case of an alien having no nationality, an-
18	other part of the alien's country of last ha-
19	bitual residence.
20	"(B) Special rules.—
21	"(i) Particularly serious crime;
22	SERIOUS NONPOLITICAL CRIME OUTSIDE
23	THE UNITED STATES.—
24	"(I) IN GENERAL.—For purposes
25	of subparagraph $(A)(x)$ , the Attorney

1	General or Secretary of Homeland Se-
2	curity, in their discretion, may deter-
3	mine that a conviction constitutes a
4	particularly serious crime based on—
5	"(aa) the nature of the con-
6	viction;
7	"(bb) the type of sentence
8	imposed; or
9	"(cc) the circumstances and
10	underlying facts of the convic-
11	tion.
12	"(II) DETERMINATION.—In mak-
13	ing a determination under subclause
14	(I), the Attorney General or Secretary
15	of Homeland Security may consider
16	all reliable information and is not lim-
17	ited to facts found by the criminal
18	court or provided in the underlying
19	record of conviction.
20	"(III) TREATMENT OF FELO-
21	NIES.—In making a determination
22	under subclause (I), an alien who has
23	been convicted of a felony (as defined
24	under this section) or an aggravated
25	felony (as defined under section

1	101(a)(43)), shall be considered to
2	have been convicted of a particularly
3	serious crime.
4	"(IV) INTERPOL RED NOTICE.—
5	In making a determination under sub-
6	paragraph (A)(xi), an Interpol Red
7	Notice may constitute reliable evi-
8	dence that the alien has committed a
9	serious nonpolitical crime outside the
10	United States.
11	"(ii) CRIMES AND EXCEPTIONS.—
12	"(I) DRIVING WHILE INTOXI-
13	CATED OR IMPAIRED.—A finding
14	under subparagraph (A)(vi) does not
15	require the Attorney General or Sec-
16	retary of Homeland Security to find
17	the first conviction for driving while
18	intoxicated or impaired (including a
19	conviction for driving while under the
20	influence of or impaired by alcohol or
21	drugs) as a predicate offense. The At-
22	torney General or Secretary of Home-
23	land Security need only make a fac-
24	tual determination that the alien pre-
25	viously was convicted for driving while

1	intoxicated or impaired as those terms
2	are defined under the jurisdiction
3	where the conviction occurred (includ-
4	ing a conviction for driving while
5	under the influence of or impaired by
6	alcohol or drugs).
7	"(II) STALKING AND OTHER
8	CRIMES.—In making a determination
9	under subparagraph (A)(viii), includ-
10	ing determining the existence of a do-
11	mestic relationship between the alien
12	and the victim, the underlying conduct
13	of the crime may be considered, and
14	the Attorney General or Secretary of
15	Homeland Security is not limited to
16	facts found by the criminal court or
17	provided in the underlying record of
18	conviction.
19	"(III) BATTERY OR EXTREME
20	CRUELTY.—In making a determina-
21	tion under subparagraph (A)(ix), the
22	phrase 'battery or extreme cruelty' in-
23	cludes—
24	"(aa) any act or threatened
25	act of violence, including any

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1	forceful detention, which results
2	or threatens to result in physical
3	or mental injury;
4	"(bb) psychological or sexual
5	abuse or exploitation, including
6	rape, molestation, incest, or
7	forced prostitution, shall be con-
8	sidered acts of violence; and
9	"(cc) other abusive acts, in-
10	cluding acts that, in and of them-
11	selves, may not initially appear
12	violent, but that are a part of an
13	overall pattern of violence.
14	"(IV) EXCEPTION FOR VICTIMS
15	OF DOMESTIC VIOLENCE.—An alien
16	who was convicted of an offense de-
17	scribed in clause (viii) or (ix) of sub-
18	paragraph (A) is not ineligible for
19	asylum on that basis if the alien satis-
20	fies the criteria under section
21	237(a)(7)(A).
22	"(C) Specific circumstances.—Para-
23	graph (1) shall not apply to an alien whose
24	claim is based on—

1	"(i) personal animus or retribution,
2	including personal animus in which the al-
3	leged persecutor has not targeted, or mani-
4	fested an animus against, other members
5	of an alleged particular social group in ad-
6	dition to the member who has raised the
7	claim at issue;
8	"(ii) the applicant's generalized dis-
9	approval of, disagreement with, or opposi-
10	tion to criminal, terrorist, gang, guerilla,
11	or other non-state organizations absent ex-
12	pressive behavior in furtherance of a dis-
13	crete cause against such organizations re-
14	lated to control of a State or expressive be-
15	havior that is antithetical to the State or
16	a legal unit of the State;
17	"(iii) the applicant's resistance to re-
18	cruitment or coercion by guerrilla, crimi-
19	nal, gang, terrorist, or other non-state or-
20	ganizations;
21	"(iv) the targeting of the applicant for
22	criminal activity for financial gain based
23	on wealth or affluence or perceptions of
24	wealth or affluence;

1	"(v) the applicant's criminal activity;
2	or
3	"(vi) the applicant's perceived, past or
4	present, gang affiliation.
5	"(D) DEFINITIONS AND CLARIFICA-
6	TIONS.—
7	"(i) Definitions.—For purposes of
8	this paragraph:
9	"(I) FELONY.—The term 'felony'
10	means—
11	"(aa) any crime defined as a
12	felony by the relevant jurisdiction
13	(Federal, State, tribal, or local)
14	of conviction; or
15	"(bb) any crime punishable
16	by more than one year of impris-
17	onment.
18	"(II) MISDEMEANOR.—The term
19	'misdemeanor' means—
20	"(aa) any crime defined as a
21	misdemeanor by the relevant ju-
22	risdiction (Federal, State, tribal,
23	or local) of conviction; or

- "(bb) any crime not punish-1 2 able by more than one year of 3 imprisonment. "(ii) CLARIFICATIONS.— 4 5 "(I) CONSTRUCTION.—For pur-6 poses of this paragraph, whether any 7 activity or conviction also may con-8 stitute a basis for removal is immate-9 rial to a determination of asylum eli-10 gibility. "(II) ATTEMPT, CONSPIRACY, OR 11 12 SOLICITATION.—For purposes of this 13 paragraph, all references to a criminal 14 offense or criminal conviction shall be 15 deemed to include any attempt, con-16 spiracy, or solicitation to commit the 17 offense or any other inchoate form of 18 the offense. 19 "(III) EFFECT OF CERTAIN OR-20 DERS.— "(aa) 21 In GENERAL.—No 22 order vacating a conviction, 23 modifying a sentence, clarifying a 24 sentence, or otherwise altering a
- 25 conviction or sentence shall have

1	any effect under this paragraph
2	unless the Attorney General or
3	Secretary of Homeland Security
4	determines that—
5	"(AA) the court issuing
6	the order had jurisdiction
7	and authority to do so; and
8	"(BB) the order was
9	not entered for rehabilitative
10	purposes or for purposes of
11	ameliorating the immigra-
12	tion consequences of the
13	conviction or sentence.
14	"(bb) Ameliorating immi-
15	GRATION CONSEQUENCES.—For
16	purposes of item (aa)(BB), the
17	order shall be presumed to be for
18	the purpose of ameliorating im-
19	migration consequences if—
20	"(AA) the order was
21	entered after the initiation
22	of any proceeding to remove
23	the alien from the United
24	States; or

1	"(BB) the alien moved
2	for the order more than one
3	year after the date of the
4	original order of conviction
5	or sentencing, whichever is
6	later.
7	"(cc) Authority of immi-
8	GRATION JUDGE.—An immigra-
9	tion judge is not limited to con-
10	sideration only of material in-
11	cluded in any order vacating a
12	conviction, modifying a sentence,
13	or clarifying a sentence to deter-
14	mine whether such order should
15	be given any effect under this
16	paragraph, but may consider
17	such additional information as
18	the immigration judge determines
19	appropriate.
20	"(E) Additional limitations.—The
21	Secretary of Homeland Security or the Attorney
22	General may by regulation establish additional
23	limitations and conditions, consistent with this
24	section, under which an alien shall be ineligible
25	for asylum under paragraph (1).

1	"(F) NO JUDICIAL REVIEW.—There shall
2	be no judicial review of a determination of the
3	Secretary of Homeland Security or the Attorney
4	General under subparagraph (A)(xiii).".
5	SEC. 105. EMPLOYMENT AUTHORIZATION.
6	Paragraph $(2)$ of section $208(d)$ of the Immigration
7	and Nationality Act (8 U.S.C. 1158(d)) is amended to
8	read as follows:
9	"(2) Employment Authorization.—
10	"(A) AUTHORIZATION PERMITTED.—An
11	applicant for asylum is not entitled to employ-
12	ment authorization, but such authorization may
13	be provided under regulation by the Secretary
14	of Homeland Security. An applicant who is not
15	otherwise eligible for employment authorization
16	shall not be granted such authorization prior to
17	the date that is 180 days after the date of filing
18	of the application for asylum.
19	"(B) TERMINATION.—Each grant of em-
20	ployment authorization under subparagraph
21	(A), and any renewal or extension thereof, shall
22	be valid for a period of 6 months, except that
23	such authorization, renewal, or extension shall
24	terminate prior to the end of such 6 month pe-
25	riod as follows:

1	"(i) Immediately following the denial
2	of an asylum application by an asylum offi-
3	cer, unless the case is referred to an immi-
4	gration judge.
5	"(ii) 30 days after the date on which
6	an immigration judge denies an asylum ap-
7	plication, unless the alien timely appeals to
8	the Board of Immigration Appeals.
9	"(iii) Immediately following the denial
10	by the Board of Immigration Appeals of an
11	appeal of a denial of an asylum applica-
12	tion.
13	"(C) RENEWAL.—The Secretary of Home-
14	land Security may not grant, renew, or extend
15	employment authorization to an alien if the
16	alien was previously granted employment au-
17	thorization under subparagraph (A), and the
18	employment authorization was terminated pur-
19	suant to a circumstance described in subpara-
20	graph (B)(i), (ii), or (iii), unless a Federal
21	court of appeals remands the alien's case to the
22	Board of Immigration Appeals.
23	"(D) INELIGIBILITY.—The Secretary of
24	Homeland Security may not grant employment

1	authorization to an alien under this paragraph
2	if the alien—
3	"(i) is ineligible for asylum under sub-
4	section $(b)(2)(A)$ ; or
5	"(ii) entered or attempted to enter the
6	United States at a place and time other
7	than lawfully through a United States port
8	of entry.".
9	SEC. 106. ASYLUM FEES.
10	Paragraph (3) of section 208(d) of the Immigration
11	and Nationality Act (8 U.S.C. 1158(d)) is amended to
12	read as follows:
13	"(3) FEES.—
14	"(A) APPLICATION FEE.—A fee of not less
15	than \$50 for each application for asylum shall
16	be imposed. Such fee shall not exceed the cost
17	of adjudicating the application. Such fee shall
18	not apply to an unaccompanied alien child who
19	files an asylum application in proceedings under
20	section 240.
21	"(B) Employment authorization.—A
22	fee may also be imposed for the consideration
23	of an application for employment authorization
24	under this section and for adjustment of status

1	under section 209(b). Such a fee shall not ex-
2	ceed the cost of adjudicating the application.
3	"(C) PAYMENT.—Fees under this para-
4	graph may be assessed and paid over a period
5	of time or by installments.
6	"(D) RULE OF CONSTRUCTION.—Nothing
7	in this paragraph shall be construed to limit the
8	authority of the Attorney General or Secretary
9	of Homeland Security to set adjudication and
10	naturalization fees in accordance with section
11	286(m).".
12	SEC. 107. RULES FOR DETERMINING ASYLUM ELIGIBILITY.
13	Section 208 of the Immigration and Nationality Act
14	(8 U.S.C. 1158) is amended by adding at the end the fol-
15	lowing:
16	"(f) Rules for Determining Asylum Eligi-
17	BILITY.—In making a determination under subsection
18	(b)(1)(A) with respect to whether an alien is a refugee
19	within the meaning of section $101(a)(42)(A)$ , the following
20	shall apply:
21	"(1) PARTICULAR SOCIAL GROUP.—The Sec-
22	retary of Homeland Security or the Attorney Gen-
23	eral shall not determine that an alien is a member
24	of a particular social group unless the alien articu-
25	lates on the record, or provides a basis on the record

1	for determining, the definition and boundaries of the
2	alleged particular social group, establishes that the
3	particular social group exists independently from the
4	alleged persecution, and establishes that the alien's
5	claim of membership in a particular social group
6	does not involve—
7	"(A) past or present criminal activity or
8	association (including gang membership);
9	"(B) presence in a country with general-
10	ized violence or a high crime rate;
11	"(C) being the subject of a recruitment ef-
12	fort by criminal, terrorist, or persecutory
13	groups;
14	"(D) the targeting of the applicant for
15	criminal activity for financial gain based on per-
16	ceptions of wealth or affluence;
17	"(E) interpersonal disputes of which gov-
18	ernmental authorities in the relevant society or
19	region were unaware or uninvolved;
20	"(F) private criminal acts of which govern-
21	mental authorities in the relevant society or re-
22	gion were unaware or uninvolved;
23	"(G) past or present terrorist activity or
24	association;

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1	"(H) past or present persecutory activity
2	or association; or
3	"(I) status as an alien returning from the
4	United States.
5	"(2) POLITICAL OPINION.—The Secretary of
6	Homeland Security or the Attorney General may not
7	determine that an alien holds a political opinion with
8	respect to which the alien is subject to persecution
9	if the political opinion is constituted solely by gener-
10	alized disapproval of, disagreement with, or opposi-
11	tion to criminal, terrorist, gang, guerilla, or other
12	non-state organizations and does not include expres-
13	sive behavior in furtherance of a cause against such
14	organizations related to efforts by the State to con-
15	trol such organizations or behavior that is antithet-
16	ical to or otherwise opposes the ruling legal entity of
17	the State or a unit thereof.
18	"(3) PERSECUTION.—The Secretary of Home-
19	land Security or the Attorney General may not de-
20	termine that an alien has been subject to persecution
21	or has a well-founded fear of persecution based only
22	on—
23	"(A) the existence of laws or government
24	policies that are unenforced or infrequently en-

policies that are unenforced or infrequently enforced, unless there is credible evidence that

1	such a law or policy has been or would be ap-
2	plied to the applicant personally; or
3	"(B) the conduct of rogue foreign govern-
4	ment officials acting outside the scope of their
5	official capacity.
6	"(4) Discretionary determination.—
7	"(A) ADVERSE DISCRETIONARY FAC-
8	TORS.—The Secretary of Homeland Security or
9	the Attorney General may only grant asylum to
10	an alien if the alien establishes that he or she
11	warrants a favorable exercise of discretion. In
12	making such a determination, the Attorney
13	General or Secretary of Homeland Security
14	shall consider, if applicable, an alien's use of
15	fraudulent documents to enter the United
16	States, unless the alien arrived in the United
17	States by air, sea, or land directly from the ap-
18	plicant's home country without transiting
19	through any other country.
20	"(B) FAVORABLE EXERCISE OF DISCRE-
21	TION NOT PERMITTED.—Except as provided in
22	subparagraph (C), the Attorney General or Sec-
23	retary of Homeland Security shall not favorably
24	exercise discretion under this section for any
25	alien who—

1	"(i) has accrued more than one year
2	of unlawful presence in the United States,
3	
	as defined in sections $212(a)(9)(B)(ii)$ and
4	(iii), prior to filing an application for asy-
5	lum;
6	"(ii) at the time the asylum applica-
7	tion is filed with the immigration court or
8	is referred from the Department of Home-
9	land Security, has—
10	"(I) failed to timely file (or time-
11	ly file a request for an extension of
12	time to file) any required Federal,
13	State, or local income tax returns;
14	"(II) failed to satisfy any out-
15	standing Federal, State, or local tax
16	obligations; or
17	"(III) income that would result
18	in tax liability under section 1 of the
19	Internal Revenue Code of 1986 and
20	that was not reported to the Internal
21	Revenue Service;
22	"(iii) has had two or more prior asy-
23	lum applications denied for any reason;

1	"(iv) has withdrawn a prior asylum
2	application with prejudice or been found to
3	have abandoned a prior asylum application;
4	"(v) failed to attend an interview re-
5	garding his or her asylum application with
6	the Department of Homeland Security, un-
7	less the alien shows by a preponderance of
8	the evidence that—
9	"(I) exceptional circumstances
10	prevented the alien from attending the
11	interview; or
12	"(II) the interview notice was not
13	mailed to the last address provided by
14	the alien or the alien's representative
15	and neither the alien nor the alien's
16	representative received notice of the
17	interview; or
18	"(vi) was subject to a final order of
19	removal, deportation, or exclusion and did
20	not file a motion to reopen to seek asylum
21	based on changed country conditions with-
22	in one year of the change in country condi-
23	tions.
24	"(C) EXCEPTIONS.—If one or more of the
25	adverse discretionary factors set forth in sub-

1 paragraph (B) are present, the Attorney Gen-2 eral or the Secretary, may, notwithstanding such subparagraph (B), favorably exercise dis-3 4 cretion under section 208— 5 "(i) in extraordinary circumstances, 6 such as those involving national security or 7 foreign policy considerations; or 8 "(ii) if the alien, by clear and con-9 vincing evidence, demonstrates that the de-10 nial of the application for asylum would re-11 sult in exceptional and extremely unusual 12 hardship to the alien. 13 "(5) LIMITATION.—If the Secretary or the At-14 torney General determines that an alien fails to sat-15 isfy the requirement under paragraph (1), the alien 16 may not be granted asylum based on membership in 17 a particular social group, and may not appeal the 18 determination of the Secretary or Attorney General, 19 as applicable. A determination under this paragraph 20 shall not serve as the basis for any motion to reopen 21 or reconsider an application for asylum or with-22 holding of removal for any reason, including a claim 23 of ineffective assistance of counsel, unless the alien 24 complies with the procedural requirements for such 25 a motion and demonstrates that counsel's failure to

1	define, or provide a basis for defining, a formulation
2	of a particular social group was both not a strategic
3	choice and constituted egregious conduct.
4	"(6) Stereotypes.—Evidence offered in sup-
5	port of an application for asylum that promotes cul-
6	tural stereotypes about a country, its inhabitants, or
7	an alleged persecutor, including stereotypes based on
8	race, religion, nationality, or gender, shall not be ad-
9	missible in adjudicating that application, except that
10	evidence that an alleged persecutor holds
11	stereotypical views of the applicant shall be admis-
12	sible.
13	"(7) DEFINITIONS.—In this section:
14	"(A) The term 'membership in a particular
15	social group' means membership in a group
16	that is—
17	"(i) composed of members who share
18	a common immutable characteristic;
19	"(ii) defined with particularity; and
20	"(iii) socially distinct within the soci-
21	ety in question.
22	"(B) The term 'political opinion' means an
23	ideal or conviction in support of the furtherance
24	of a discrete cause related to political control of
25	a state or a unit thereof.

- "(C) The term 'persecution' means the in-1 2 fliction of a severe level of harm constituting an 3 exigent threat by the government of a country 4 or by persons or an organization that the gov-5 ernment was unable or unwilling to control. 6 Such term does not include— 7 "(i) generalized harm or violence that 8 arises out of civil, criminal, or military 9 strife in a country; 10 "(ii) all treatment that the United 11 States regards as unfair, offensive, unjust, unlawful, or unconstitutional; 12 13 "(iii) intermittent harassment, includ-14 ing brief detentions; "(iv) threats with no actual effort to 15 16 carry out the threats, except that particu-17 larized threats of severe harm of an imme-18 diate and menacing nature made by an 19 identified entity may constitute persecu-20 tion; or 21 "(v) non-severe economic harm or
- 22 property damage.".

SEC. 108. FIRM RESETTLEMENT.

1

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

5 "(g) FIRM RESETTLEMENT.—In determining wheth6 er an alien was firmly resettled in another country prior
7 to arriving in the United States under subsection
8 (b)(2)(A)(xiv), the following shall apply:

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

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

"(i) received or was eligible for any
permanent legal immigration status in that
country;

19 "(ii) resided in such a country with
20 any non-permanent but indefinitely renew21 able legal immigration status (including
22 asylee, refugee, or similar status, but ex23 cluding status of a tourist); or

24 "(iii) resided in such a country and
25 could have applied for and obtained an im26 migration status described in clause (ii);

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

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

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

1 "(3) FIRM RESETTLEMENT OF PARENT.—An 2 alien shall be presumed to have been firmly resettled 3 in another country if the alien's parent was firmly 4 resettled in another country, the parent's resettle-5 ment occurred before the alien turned 18 years of 6 age, and the alien resided with such parent at the 7 time of the firm resettlement, unless the alien estab-8 lishes that he or she could not have derived any per-9 manent legal immigration status or any non-perma-10 nent but indefinitely renewable legal immigration 11 status (including asylum, refugee, or similar status, 12 but excluding status of a tourist) from the alien's 13 parent.". 14 SEC. 109. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-15 PLICATIONS. 16 (a) IN GENERAL.—Section 208(d)(4) of the Immi-17 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is amended-18 19 (1) in the matter preceding subparagraph (A), 20 by inserting "the Secretary of Homeland Security or" before "the Attorney General"; 21 22 (2) in subparagraph (A), by striking "and of 23 the consequences, under paragraph (6), of knowingly

filing a frivolous application for asylum; and" andinserting a semicolon;

200
(3) in subparagraph (B), by striking the period
and inserting "; and"; and
(4) by adding at the end the following:
"(C) ensure that a written warning ap-
pears on the asylum application advising the
alien of the consequences of filing a frivolous
application and serving as notice to the alien of
the consequence of filing a frivolous applica-
tion.".
(b) Conforming Amendment.—Section 208(d)(6)
of the Immigration and Nationality Act (8 U.S.C.
1158(d)(6)) is amended by striking "If the" and all that
follows and inserting:
"(A) IN GENERAL.—If the Secretary of
Homeland Security or the Attorney General de-
termines that an alien has knowingly made a
frivolous application for asylum and the alien
has received the notice under paragraph $(4)(C)$ ,
the alien shall be permanently ineligible for any
benefits under this chapter, effective as the date
of the final determination of such an applica-
tion.
"(B) CRITERIA.—An application is frivo-

1	the Attorney General determines, consistent
2	with subparagraph (C), that—
3	"(i) it is so insufficient in substance
4	that it is clear that the applicant know-
5	ingly filed the application solely or in part
6	to delay removal from the United States,
7	to seek employment authorization as an
8	applicant for asylum pursuant to regula-
9	tions issued pursuant to paragraph (2), or
10	to seek issuance of a Notice to Appear in
11	order to pursue Cancellation of Removal
12	under section 240A(b); or
13	"(ii) any of the material elements are
14	knowingly fabricated.
15	"(C) SUFFICIENT OPPORTUNITY TO CLAR-
16	IFY.—In determining that an application is friv-
17	olous, the Secretary or the Attorney General,
18	must be satisfied that the applicant, during the
19	course of the proceedings, has had sufficient op-
20	portunity to clarify any discrepancies or implau-
21	sible aspects of the claim.
22	"(D) WITHHOLDING OF REMOVAL NOT
23	PRECLUDED.—For purposes of this section, a
24	finding that an alien filed a frivolous asylum
25	application shall not preclude the alien from

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1	seeking withholding of removal under section
2	241(b)(3) or protection pursuant to the Con-
3	vention Against Torture.".
4	SEC. 110. TECHNICAL AMENDMENTS.
5	Section 208 of the Immigration and Nationality Act
6	(8 U.S.C. 1158) is amended—
7	(1) in subsection (a)—
8	(A) in paragraph $(2)(D)$ , by inserting
9	"Secretary of Homeland Security or the" before
10	"Attorney General"; and
11	(B) in paragraph (3), by inserting "Sec-
12	retary of Homeland Security or the" before
13	"Attorney General";
14	(2) in subsection (c)—
15	(A) in paragraph (1), by striking "Attor-
16	ney General" each place such term appears and
17	inserting "Secretary of Homeland Security";
18	(B) in paragraph (2), in the matter pre-
19	ceding subparagraph (A), by inserting "Sec-
20	retary of Homeland Security or the" before
21	"Attorney General"; and
22	(C) in paragraph (3), by inserting "Sec-
23	retary of Homeland Security or the" before
24	"Attorney General"; and
25	(3) in subsection (d)—

1	(A) in paragraph (1), by inserting "Sec-
2	retary of Homeland Security or the" before
3	"Attorney General" each place such term ap-
4	pears; and
5	(B) in paragraph (5)—
6	(i) in subparagraph (A), by striking
7	"Attorney General" and inserting "Sec-
8	retary of Homeland Security'; and
9	(ii) in subparagraph (B), by inserting
10	"Secretary of Homeland Security or the"
11	before "Attorney General".
12	SEC. 111. REQUIREMENT FOR PROCEDURES RELATING TO
13	CERTAIN ASYLUM APPLICATIONS.
1 /	(a) In $(1)$ (1) $(1)$ $(1)$ $(1)$ $(1)$ $(1)$ $(1)$ $(1)$ $(1)$ $(1)$
14	(a) IN GENERAL.—Not later than 30 days after the
14 15	(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Attorney General
15	date of the enactment of this Act, the Attorney General
15 16	date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of
15 16 17	date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens—
15 16 17 18	date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens— (1) who are subject to removal proceedings
15 16 17 18 19	date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens— (1) who are subject to removal proceedings under section 240 of the Immigration and Nation-
15 16 17 18 19 20	<ul> <li>date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens— <ol> <li>who are subject to removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a); and</li> </ol> </li> </ul>
<ol> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	<ul> <li>date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens— <ul> <li>(1) who are subject to removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a); and</li> <li>(2) who are nationals of a Western Hemisphere</li> </ul> </li> </ul>
<ol> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	<ul> <li>date of the enactment of this Act, the Attorney General shall establish procedures to expedite the adjudication of asylum applications for aliens— <ul> <li>(1) who are subject to removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a); and</li> <li>(2) who are nationals of a Western Hemisphere country sanctioned by the United States, as de-</li> </ul> </li> </ul>

ject to sanctions pursuant to—

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shall apply only to an asylum application filed by an alien

who is a national of a Western Hemisphere country sub-

4 (1) the Cuban Liberty and Democratic Soli-5 darity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 6 note); 7 (2) the Reinforcing Nicaragua's Adherence to 8 Conditions for Electoral Reform Act of 2021 or the 9 RENACER Act (50 U.S.C. 1701 note); or 10 (3) Executive Order 13692 (80 Fed. Reg. 11 12747; declaring a national emergency with respect 12 to the situation in Venezuela). 13 (c) APPLICABILITY.—This section shall only apply to an alien who files an application for asylum after the date 14 15 of the enactment of this Act. TITLE II—BORDER SAFETY AND 16 **MIGRANT PROTECTION** 17 18 SEC. 201. INSPECTION OF APPLICANTS FOR ADMISSION. 19 Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended— 20 21 (1) in subsection (b)— 22 (A) in paragraph (1)— 23 (i) in subparagraph (A)— 24 (I) in clauses (i) and (ii), by striking "section 212(a)(6)(C)" and 25 •S 2824 IS

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1	inserting "subparagraph (A) or (C) of
2	section 212(a)(6)"; and
3	(II) by adding at the end the fol-
4	lowing:
5	"(iv) INELIGIBILITY FOR PAROLE.—
6	An alien described in clause (i) or (ii) shall
7	not be eligible for parole except as ex-
8	pressly authorized pursuant to section
9	212(d)(5), or for parole or release pursu-
10	ant to section 236(a)."; and
11	(ii) in subparagraph (B)—
12	(I) in clause (ii), by striking
13	"asylum." and inserting "asylum and
14	shall not be released (including pursu-
15	ant to parole or release pursuant to
16	section 236(a) but excluding as ex-
17	pressly authorized pursuant to section
18	212(d)(5)) other than to be removed
19	or returned to a country as described
20	in paragraph (3)."; and
21	(II) in clause (iii)(IV)—
22	(aa) in the header by strik-
23	ing "DETENTION" and inserting
24	"DETENTION, RETURN, OR RE-
25	MOVAL"; and

1	(bb) by adding at the end
2	the following: "The alien shall
3	not be released (including pursu-
4	ant to parole or release pursuant
5	to section 236(a) but excluding
6	as expressly authorized pursuant
7	to section $212(d)(5)$ ) other than
8	to be removed or returned to a
9	country as described in para-
10	graph (3).";
11	(B) in paragraph (2)—
12	(i) in subparagraph (A)—
13	(I) by striking "Subject to sub-
14	paragraphs (B) and (C)," and insert-
15	ing "Subject to subparagraph (B) and
16	paragraph (3),"; and
17	(II) by adding at the end the fol-
18	lowing: "The alien shall not be re-
19	leased (including pursuant to parole
20	or release pursuant to section 236(a)
21	but excluding as expressly authorized
22	pursuant to section $212(d)(5)$ ) other
23	than to be removed or returned to a
24	country as described in paragraph
25	(3)."; and

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1	(ii) by striking subparagraph (C);
2	(C) by redesignating paragraph $(3)$ as
3	paragraph (5); and
4	(D) by inserting after paragraph $(2)$ the
5	following:
6	"(3) Return to foreign territory contig-
7	UOUS TO THE UNITED STATES.—
8	"(A) IN GENERAL.—The Secretary of
9	Homeland Security may return to a foreign ter-
10	ritory contiguous to the United States any alien
11	arriving on land from that territory (whether or
12	not at a designated port of entry) pending a
13	proceeding under section 240 or review of a de-
14	termination under subsection $(b)(1)(B)(iii)(III)$ .
15	"(B) MANDATORY RETURN.—If at any
16	time the Secretary of Homeland Security can-
17	not—
18	"(i) comply with its obligations to de-
19	tain an alien as required under clauses (ii)
20	and $(iii)(IV)$ of subsection $(b)(1)(B)$ and
21	subsection $(b)(2)(A)$ ; or
22	"(ii) remove an alien to a country de-
23	scribed in section 208(a)(2)(A),
24	the Secretary of Homeland Security shall, with-
25	out exception, including pursuant to parole or

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

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

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

"(e) AUTHORITY TO PROHIBIT INTRODUCTION OF
CERTAIN ALIENS.—If the Secretary of Homeland Security
determines, in his discretion, that the prohibition of the
introduction of aliens who are inadmissible under subparagraph (A) or (C) of section 212(a)(6) or under section
212(a)(7) at an international land or maritime border of

1 the United States is necessary to achieve operational con2 trol (as defined in section 2 of the Secure Fence Act of
3 2006 (8 U.S.C. 1701 note)) of such border, the Secretary
4 may prohibit, in whole or in part, the introduction of such
5 aliens at such border for such period of time as the Sec6 retary determines is necessary for such purpose.".

### 7 SEC. 202. OPERATIONAL DETENTION FACILITIES.

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

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

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

1	(3) Etowah County Detention Center in Gads-
2	den, Alabama.
3	(4) Glades County Detention Center in Moore
4	Haven, Florida.
5	(5) South Texas Family Residential Center.
6	(c) EXCEPTION.—
7	(1) IN GENERAL.—Except as provided in para-
8	graphs (2) and (3), the Secretary of Homeland Se-
9	curity is authorized to obtain equivalent capacity for
10	detention facilities at locations other than those list-
11	ed in subsection (b).
12	(2) LIMITATION.—The Secretary may not take
13	action under paragraph (1) unless the capacity ob-
14	tained would result in a reduction of time and cost
15	relative to the cost and time otherwise required to
16	obtain such capacity.
17	(3) South texas family residential cen-
18	TER.—The exception under paragraph (1) shall not
19	apply to the South Texas Family Residential Center.
20	The Secretary shall take all necessary steps to mod-
21	ify and operate the South Texas Family Residential
22	Center in the same manner and capability it was op-
23	erating on January 20, 2021.
24	(d) PERIODIC REPORT.—Not later than 90 days after
25	the date of the enactment of this Act, and every 90 days

1	thereafter until September 30, 2027, the Secretary of
2	Homeland Security shall submit to the appropriate con-
3	gressional committees a detailed plan for and a status re-
4	port on—
5	(1) compliance with the deadline under sub-
6	section (a);
7	(2) the increase in detention capabilities re-
8	quired by this section—
9	(A) for the 90-day period immediately pre-
10	ceding the date such report is submitted; and
11	(B) for the period beginning on the first
12	day of the fiscal year during which the report
13	is submitted, and ending on the date such re-
14	port is submitted;
15	(3) the number of detention beds that were
16	used and the number of available detention beds
17	that were not used during—
18	(A) the 90-day period immediately pre-
19	ceding the date such report is submitted; and
20	(B) the period beginning on the first day
21	of the fiscal year during which the report is
22	submitted, and ending on the date such report
23	is submitted;
24	(4) the number of aliens released due to a lack
25	of available detention beds; and

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

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

(1) not later than 5 days after all U.S. Immigration and Customs Enforcement detention facilities reach 90 percent of capacity;

14 (2) not later than 5 days after all U.S. Immi15 gration and Customs Enforcement detention facili16 ties reach 95 percent of capacity; and

17 (3) not later than 5 days after all U.S. Immi18 gration and Customs Enforcement detention facili19 ties reach full capacity.

20 (f) APPROPRIATE CONGRESSIONAL COMMITTEES.—
21 In this section, the term "appropriate congressional com22 mittees" means—

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

1 (2) the Committee on Appropriations of the 2 House of Representatives; (3) the Committee on the Judiciary of the Sen-3 4 ate; and 5 (4) the Committee on Appropriations of the 6 Senate. TITLE III—PREVENTING UNCON-7 TROLLED MIGRATION FLOWS 8 IN THE WESTERN HEMI-9 SPHERE 10 11 SEC. 301. UNITED STATES POLICY REGARDING WESTERN 12 HEMISPHERE COOPERATION ON IMMIGRA-13 TION AND ASYLUM.

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

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

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

(1) the Government of Mexico authorize and accept the rapid entrance into Mexico of nationals of
countries other than Mexico who seek asylum in
Mexico, and process the asylum claims of such nationals inside Mexico, in accordance with both domestic law and international treaties and conventions governing the processing of asylum claims;

(2) the Government of Mexico authorize and accept both the rapid entrance into Mexico of all nationals of countries other than Mexico who are ineligible for asylum in Mexico and wish to apply for
asylum in the United States, whether or not at a
port of entry, and the continued presence of such

- nationals in Mexico while they wait for the adjudica tion of their asylum claims to conclude in the United
   States;
- 4 (3) the Government of Mexico commit to pro5 vide the individuals described in paragraphs (1) and
  6 (2) with appropriate humanitarian protections;

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

(5) the Government of the United States commit to work to accelerate the adjudication of asylum
claims and to conclude removal proceedings in the
wake of asylum adjudications as expeditiously as
possible;

(6) the Government of the United States commit to continue to assist the governments of countries in the Western Hemisphere, such as the Government of Honduras, the Government of El Salvador, and the Government of Guatemala, by sup-

porting the enhancement of asylum capacity in those
 countries; and

3 (7) the Government of the United States com4 mit to monitoring developments in hemispheric im5 migration trends and regional asylum capabilities to
6 determine whether additional asylum cooperation
7 agreements are warranted.

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

(c) ALIEN DEFINED.—In this section, the term
"alien" has the meaning given such term in section 101
of the Immigration and Nationality Act (8 U.S.C. 1101).
SEC. 303. MANDATORY BRIEFINGS ON UNITED STATES EF-

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### FORTS TO ADDRESS THE BORDER CRISIS.

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

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

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

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee
on Foreign Relations of the Senate.

# 20 TITLE IV—ENSURING UNITED

# 21 FAMILIES AT THE BORDER

# 22 SEC. 401. CLARIFICATION OF STANDARDS FOR FAMILY DE23 TENTION.

(a) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization

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

3 "(j) CONSTRUCTION.—

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

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

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

"(i) is charged only with a misdemeanor offense under section 275(a) of
the Immigration and Nationality Act (8
U.S.C. 1325(a)); and

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

"(B) detain the alien with the alien's
 child.".

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

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

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

# TITLE V—PROTECTION OF CHILDREN

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### 3 SEC. 501. FINDINGS.

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Congress makes the following findings:

5 (1) Implementation of the provisions of the 6 Trafficking Victims Protection Reauthorization Act 7 of 2008 that govern unaccompanied alien children 8 has incentivized multiple surges of unaccompanied 9 alien children arriving at the southwest border in the 10 years since the bill's enactment.

11 (2) The provisions of the Trafficking Victims 12 Protection Reauthorization Act of 2008 that govern 13 unaccompanied alien children treat unaccompanied 14 alien children from countries that are contiguous to 15 the United States disparately by swiftly returning 16 them to their home country absent indications of trafficking or a credible fear of return, but allowing 17 18 for the release of unaccompanied alien children from 19 noncontiguous countries into the interior of the 20 United States, often to those individuals who paid to 21 smuggle them into the country in the first place.

(3) The provisions of the Trafficking Victims
Protection Reauthorization Act of 2008 governing
unaccompanied alien children have enriched the cartels, who profit hundreds of millions of dollars each

year by smuggling unaccompanied alien children to
 the southwest border, exploiting and sexually abus ing many such unaccompanied alien children on the
 perilous journey.

5 (4) Prior to 2008, the number of unaccom6 panied alien children encountered at the southwest
7 border never exceeded 1,000 in a single year.

8 (5) The United States is currently in the midst 9 of the worst crisis of unaccompanied alien children 10 in our Nation's history, with over 350,000 such un-11 accompanied alien children encountered at the 12 southwest border since Joe Biden became President.

(6) In 2022, during the Biden Administration,
152,057 unaccompanied alien children were encountered, the most ever in a single year and an over
400 percent increase compared to the last full fiscal
year of the Trump Administration in which 33,239
unaccompanied alien children were encountered.

19 (7) The Biden Administration has lost contact
20 with at least 85,000 unaccompanied alien children
21 who entered the United States since Joe Biden took
22 office.

(8) The Biden Administration dismantled effective safeguards put in place by the Trump Administration that protected unaccompanied alien children

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1	from being abused by criminals or exploited for ille-
2	gal and dangerous child labor.
3	(9) A recent New York Times investigation
4	found that unaccompanied alien children are being
5	exploited in the labor market and "are ending up in
6	some of the most punishing jobs in the country.".
7	(10) The Times investigation found unaccom-
8	panied alien children, "under intense pressure to
9	earn money" in order to "send cash back to their
10	families while often being in debt to their sponsors
11	for smuggling fees, rent, and living expenses,"
12	feared "that they had become trapped in cir-
13	cumstances they never could have imagined.".
14	(11) The Biden Administration's Department of
15	Health and Human Services Secretary Xavier
16	Becerra compared placing unaccompanied alien chil-
17	dren with sponsors, to widgets in an assembly line,
18	stating that, "If Henry Ford had seen this in his
19	plant, he would have never become famous and rich.
20	This is not the way you do an assembly line.".
21	(12) Department of Health and Human Serv-
22	ices employees working under Secretary Xavier
23	Becerra's leadership penned a July 2021 memo-
24	randum expressing serious concern that "labor traf-

ficking was increasing" and that the agency had be-

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come "one that rewards individuals for making quick
 releases, and not one that rewards individuals for
 preventing unsafe releases.".

4 (13) Despite this, Secretary Xavier Becerra
5 pressured then-Director of the Office of Refugee Re6 settlement Cindy Huang to prioritize releases of un7 accompanied alien children over ensuring their safe8 ty, telling her "if she could not increase the number
9 of discharges he would find someone who could" and
10 then-Director Huang resigned one month later.

(14) In June 2014, the Obama-Biden Administration requested legal authority to exercise discretion in returning and removing unaccompanied alien
children from non-contiguous countries back to their
home countries.

16 (15) In August 2014, the House of Representa17 tives passed H.R. 5320, which included the Protec18 tion of Children Act.

(16) This title ends the disparate policies of the
Trafficking Victims Protection Reauthorization Act
of 2008 by ensuring the swift return of all unaccompanied alien children to their country of origin if
they are not victims of trafficking and do not have
a fear of return.

1	SEC. 502. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-
2	DREN.
3	(a) IN GENERAL.—Section 235 of the William Wil-
4	berforce Trafficking Victims Protection Reauthorization
5	Act of 2008 (8 U.S.C. 1232) is amended—
6	(1) in subsection (a)—
7	(A) in paragraph (2)—
8	(i) by amending the heading to read
9	as follows: "Rules for unaccompanied
10	ALIEN CHILDREN.—";
11	(ii) in subparagraph (A)—
12	(I) in the matter preceding clause
13	(i), by striking "who is a national or
14	habitual resident of a country that is
15	contiguous with the United States";
16	(II) in clause (i), by inserting
17	"and" at the end;
18	(III) in clause (ii), by striking ";
19	and" and inserting a period; and
20	(IV) by striking clause (iii); and
21	(iii) in subparagraph (B)—
22	(I) in the matter preceding clause
23	(i), by striking "(8 U.S.C. 1101 et
24	seq.) may—" and inserting "(8
25	U.S.C. 1101 et seq.)—";

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1	(II) in clause (i), by inserting be-
2	fore "permit such child to withdraw"
3	the following: "may"; and
4	(III) in clause (ii), by inserting
5	before "return such child" the fol-
6	lowing: "shall"; and
7	(B) in paragraph $(5)(D)$ —
8	(i) in the matter preceding clause (i),
9	by striking ", except for an unaccompanied
10	alien child from a contiguous country sub-
11	ject to exceptions under subsection (a)(2),"
12	and inserting "who does not meet the cri-
13	teria listed in paragraph (2)(A)"; and
14	(ii) in clause (i), by inserting before
15	the semicolon at the end the following: ",
16	which shall include a hearing before an im-
17	migration judge not later than 14 days
18	after being screened under paragraph (4)";
19	(2) in subsection (b)—
20	(A) in paragraph (2)—
21	(i) in subparagraph (A), by inserting
22	before the semicolon the following: "be-
23	lieved not to meet the criteria listed in sub-
24	section $(a)(2)(A)$ "; and

1 (ii) in subparagraph (B), by inserting 2 before the period the following: "and does not meet the criteria listed in subsection 3 4 (a)(2)(A)"; and (B) in paragraph (3), by striking "an un-5 6 accompanied alien child in custody shall" and 7 all that follows, and inserting the following: "an 8 unaccompanied alien child in custody— 9 "(A) in the case of a child who does not 10 meet the criteria listed in subsection (a)(2)(A), 11 shall transfer the custody of such child to the 12 Secretary of Health and Human Services not 13 later than 30 days after determining that such 14 child is an unaccompanied alien child who does 15 not meet such criteria; or

"(B) in the case of a child who meets the 16 17 criteria listed in subsection (a)(2)(A), may 18 transfer the custody of such child to the Sec-19 retary of Health and Human Services after de-20 termining that such child is an unaccompanied alien child who meets such criteria."; and

(3) in subsection (c)—

23 (A) in paragraph (3), by inserting at the 24 end the following:

21

22

1	"(D) INFORMATION ABOUT INDIVIDUALS
2	WITH WHOM CHILDREN ARE PLACED.—
3	"(i) INFORMATION TO BE PROVIDED
4	to homeland security.—Before placing
5	a child with an individual, the Secretary of
6	Health and Human Services shall provide
7	to the Secretary of Homeland Security, re-
8	garding the individual with whom the child
9	will be placed, information on—
10	"(I) the name of the individual;
11	"(II) the social security number
12	of the individual;
13	"(III) the date of birth of the in-
14	dividual;
15	"(IV) the location of the individ-
16	ual's residence where the child will be
17	placed;
18	"(V) the immigration status of
19	the individual, if known; and
20	"(VI) contact information for the
21	individual.
22	"(ii) Activities of the secretary
23	OF HOMELAND SECURITY.—Not later than
24	30 days after receiving the information
25	listed in clause (i), the Secretary of Home-

1	land Security, upon determining that an
2	individual with whom a child is placed is
3	unlawfully present in the United States
4	and not in removal proceedings pursuant
5	to chapter 4 of title II of the Immigration
6	and Nationality Act (8 U.S.C. 1221 et
7	seq.), shall initiate such removal pro-
8	ceedings."; and
9	(B) in paragraph (5)—
10	(i) by inserting after "to the greatest
11	extent practicable" the following: "(at no
12	expense to the Government)"; and
13	(ii) by striking "have counsel to rep-
14	resent them" and inserting "have access to
15	counsel to represent them".
16	(b) EFFECTIVE DATE.—The amendments made by
17	this section shall apply to any unaccompanied alien child
18	(as such term is defined in section 462(g) of the Home-
19	land Security Act of 2002 (6 U.S.C. 279(g))) apprehended
20	on or after the date that is 30 days after the date of the
21	enactment of this Act.

SEC. 503. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-
MIGRANTS UNABLE TO REUNITE WITH EI-
THER PARENT.
Section $101(a)(27)(J)$ of the Immigration and Na-
tionality Act (8 U.S.C. $1101(a)(27)(J)$ ) is amended—
(1) in clause (i), by striking ", and whose reuni-
fication with 1 or both of the immigrant's parents
is not viable due to abuse, neglect, abandonment, or
a similar basis found under State law"; and
(2) in clause (iii)—
(A) in subclause (I), by striking "and" at
the end;
(B) in subclause (II), by inserting "and"
after the semicolon; and
(C) by adding at the end the following:
"(III) an alien may not be grant-
ed special immigrant status under this
subparagraph if the alien's reunifica-
tion with any one parent or legal
guardian is not precluded by abuse,
neglect, abandonment, or any similar
cause under State law;".

## 23 SEC. 504. RULE OF CONSTRUCTION.

Nothing in this title shall be construed to limit thefollowing procedures or practices relating to an unaccom-

1	panied alien child (as defined in section $462(g)(2)$ of the
2	Homeland Security Act of 2002 (6 U.S.C. $279(g)(2)$ ):
3	(1) Screening of such a child for a credible fear
4	of return to his or her country of origin.
5	(2) Screening of such a child to determine
6	whether he or she was a victim of trafficking.
7	(3) Department of Health and Human Services
8	policy in effect on the date of the enactment of this
9	Act requiring a home study for such a child if he or
10	she is under 12 years of age.
11	TITLE VI–VISA OVERSTAYS
12	PENALTIES
10	GEG 401 EVELVIDED DENALTING DOD HILDGAL ENTERN OD
13	SEC. 601. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR
13 14	SEC. 601. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.
14	PRESENCE.
14 15	<b>PRESENCE.</b> Section 275 of the Immigration and Nationality Act
14 15 16	<b>PRESENCE.</b> Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended—
14 15 16 17	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a
14 15 16 17 18	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a subsequent commission of any such offense" the fol-
14 15 16 17 18 19	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a subsequent commission of any such offense" the fol- lowing: "or if the alien was previously convicted of
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a subsequent commission of any such offense" the fol- lowing: "or if the alien was previously convicted of an offense under subsection (e)(2)(A)";
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a subsequent commission of any such offense" the fol- lowing: "or if the alien was previously convicted of an offense under subsection (e)(2)(A)"; (2) in subsection (b)—
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	PRESENCE. Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended— (1) in subsection (a) by inserting after "for a subsequent commission of any such offense" the fol- lowing: "or if the alien was previously convicted of an offense under subsection (e)(2)(A)"; (2) in subsection (b)— (A) in paragraph (1), by striking "at least

1	(B) in paragraph (2), by inserting after
2	"in the case of an alien who has been previously
3	subject to a civil penalty under this subsection"
4	the following: "or subsection $(e)(2)(B)$ "; and
5	(3) by adding at the end the following:
6	"(e) VISA OVERSTAYS.—
7	"(1) IN GENERAL.—An alien who was admitted
8	as a nonimmigrant has violated this paragraph if the
9	alien, for an aggregate of 10 days or more, has
10	failed—
11	"(A) to maintain the nonimmigrant status
12	in which the alien was admitted, or to which it
13	was changed under section 248, including com-
14	plying with the period of stay authorized by the
15	Secretary of Homeland Security in connection
16	with such status; or
17	"(B) to comply otherwise with the condi-
18	tions of such nonimmigrant status.
19	"(2) PENALTIES.—An alien who has violated
20	paragraph (1)—
21	"(A) shall—
22	"(i) for the first commission of such a
23	violation, be fined under title 18, United
24	States Code, or imprisoned not more than
25	6 months, or both; and

1	"(ii) for a subsequent commission of
2	such a violation, or if the alien was pre-
3	viously convicted of an offense under sub-
4	section (a), be fined under such title 18, or
5	imprisoned not more than 2 years, or both;
6	and
7	"(B) in addition to, and not in lieu of, any
8	penalty under subparagraph (A) and any other
9	criminal or civil penalties that may be imposed,
10	shall be subject to a civil penalty of—
11	"(i) not less than \$500 and not more
12	than \$1,000 for each violation; or
13	"(ii) twice the amount specified in
14	clause (i), in the case of an alien who has
15	been previously subject to a civil penalty
16	under this subparagraph or subsection
17	(b).".
18	TITLE VII—IMMIGRATION
19	PAROLE REFORM
20	SEC. 701. IMMIGRATION PAROLE REFORM.
21	Section 212(d)(5) of the Immigration and Nationality
22	Act (8 U.S.C. $1182(d)(5)$ ) is amended to read as follows:
23	((5)(A) Except as provided in subparagraphs (B)
24	and (C) and section 214(f), the Secretary of Homeland
25	Security, in the discretion of the Secretary, may tempo-

rarily parole into the United States any alien applying for 1 2 admission to the United States who is not present in the 3 United States, under such conditions as the Secretary may 4 prescribe, on a case-by-case basis, and not according to 5 eligibility criteria describing an entire class of potential parole recipients, for urgent humanitarian reasons or sig-6 7 nificant public benefit. Parole granted under this subpara-8 graph may not be regarded as an admission of the alien. 9 When the purposes of such parole have been served in the 10 opinion of the Secretary, the alien shall immediately return or be returned to the custody from which the alien 11 was paroled. After such return, the case of the alien shall 12 13 be dealt with in the same manner as the case of any other applicant for admission to the United States. 14

15 "(B) The Secretary of Homeland Security may grant16 parole to any alien who—

17 "(i) is present in the United States without18 lawful immigration status;

19 "(ii) is the beneficiary of an approved petition20 under section 203(a);

21 "(iii) is not otherwise inadmissible or remov-22 able; and

23 "(iv) is the spouse or child of a member of the24 Armed Forces serving on active duty.

1	"(C) The Secretary of Homeland Security may grant
2	parole to any alien—
3	"(i) who is a national of the Republic of Cuba
4	and is living in the Republic of Cuba;
5	"(ii) who is the beneficiary of an approved peti-
6	tion under section 203(a);
7	"(iii) for whom an immigrant visa is not imme-
8	diately available;
9	"(iv) who meets all eligibility requirements for
10	an immigrant visa;
11	"(v) who is not otherwise inadmissible; and
12	"(vi) who is receiving a grant of parole in fur-
13	therance of the commitment of the United States to
14	the minimum level of annual legal migration of
15	Cuban nationals to the United States specified in
16	the U.SCuba Joint Communiqué on Migration,
17	done at New York September 9, 1994, and re-
18	affirmed in the Cuba-United States: Joint Statement
19	on Normalization of Migration, Building on the
20	Agreement of September 9, 1994, done at New York
21	May 2, 1995.
22	"(D) The Secretary of Homeland Security may grant
23	parole to an alien who is returned to a contiguous country
24	under section $235(b)(3)$ to allow the alien to attend the
25	alien's immigration hearing. The grant of parole shall not

exceed the time required for the alien to be escorted to,
 and attend, the alien's immigration hearing scheduled on
 the same calendar day as the grant, and to immediately
 thereafter be escorted back to the contiguous country. A
 grant of parole under this subparagraph shall not be con sidered for purposes of determining whether the alien is
 inadmissible under this Act.

8 "(E) For purposes of determining an alien's eligi-9 bility for parole under subparagraph (A), an urgent hu-10 manitarian reason shall be limited to circumstances in 11 which the alien establishes that—

12 "(i)(I) the alien has a medical emergency; and 13 "(II)(aa) the alien cannot obtain necessary 14 treatment in the foreign state in which the alien is 15 residing; or

"(bb) the medical emergency is life threatening
and there is insufficient time for the alien to be admitted to the United States through the normal visa
process;

20 "(ii) the alien is the parent or legal guardian of
21 an alien described in clause (i) and the alien de22 scribed in clause (i) is a minor;

23 "(iii) the alien is needed in the United States
24 in order to donate an organ or other tissue for
25 transplant and there is insufficient time for the alien

to be admitted to the United States through the nor mal visa process;

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"(iv) the alien has a close family member in the
United States whose death is imminent and the alien
could not arrive in the United States in time to see
such family member alive if the alien were to be admitted to the United States through the normal visa
process;

9 "(v) the alien is seeking to attend the funeral 10 of a close family member and the alien could not ar-11 rive in the United States in time to attend such fu-12 neral if the alien were to be admitted to the United 13 States through the normal visa process;

14 "(vi) the alien is an adopted child with an ur-15 gent medical condition who is in the legal custody of 16 the petitioner for a final adoption-related visa and 17 whose medical treatment is required before the ex-18 pected award of a final adoption-related visa; or

"(vii) the alien is a lawful applicant for adjustment of status under section 245 and is returning
to the United States after temporary travel abroad.
"(F) For purposes of determining an alien's eligibility for parole under subparagraph (A), a significant
public benefit may be determined to result from the parole
of an alien only if—

1 "(i) the alien has assisted (or will assist, wheth-2 er knowingly or not) the United States Government 3 in a law enforcement matter; "(ii) the alien's presence is required by the Gov-4 5 ernment in furtherance of such law enforcement 6 matter; and 7 "(iii) the alien is inadmissible, does not satisfy 8 the eligibility requirements for admission as a non-9 immigrant, or there is insufficient time for the alien 10 to be admitted to the United States through the nor-11 mal visa process. "(G) For purposes of determining an alien's eligi-12 13 bility for parole under subparagraph (A), the term 'caseby-case basis' means that the facts in each individual case 14 15 are considered and parole is not granted based on membership in a defined class of aliens to be granted parole. 16 17 The fact that aliens are considered for or granted parole 18 one by one and not as a group is not sufficient to establish that the parole decision is made on a 'case-by-case basis'. 19 20 "(H) The Secretary of Homeland Security may not 21 use the parole authority under this paragraph to parole an alien into the United States for any reason or purpose 22

23 other than those described in subparagraphs (B), (C), (D),

24 (E), and (F).

"(I) An alien granted parole may not accept employment, except that an alien granted parole pursuant to subparagraph (B) or (C) is authorized to accept employment
for the duration of the parole, as evidenced by an employment authorization document issued by the Secretary of
Homeland Security.

"(J) Parole granted after a departure from the 7 8 United States shall not be regarded as an admission of 9 the alien. An alien granted parole, whether as an initial 10 grant of parole or parole upon reentry into the United States, is not eligible to adjust status to lawful permanent 11 12 residence or for any other immigration benefit if the immi-13 gration status the alien had at the time of departure did not authorize the alien to adjust status or to be eligible 14 15 for such benefit.

16 "(K)(i) Except as provided in clauses (ii) and (iii),
17 parole shall be granted to an alien under this paragraph
18 for the shorter of—

19 "(I) a period of sufficient length to accomplish20 the activity described in subparagraph (D), (E), or

21 (F) for which the alien was granted parole; or

22 "(II) 1 year.

23 "(ii) Grants of parole pursuant to subparagraph (A)
24 may be extended once, in the discretion of the Secretary,
25 for an additional period that is the shorter of—

"(I) the period that is necessary to accomplish
 the activity described in subparagraph (E) or (F) for
 which the alien was granted parole; or

4 "(II) 1 year.

5 "(iii) Aliens who have a pending application to adjust
6 status to permanent residence under section 245 may re7 quest extensions of parole under this paragraph, in 1-year
8 increments, until the application for adjustment has been
9 adjudicated. Such parole shall terminate immediately upon
10 the denial of such adjustment application.

11 "(L) Not later than 90 days after the last day of each 12 fiscal year, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and 13 14 the Committee on the Judiciary of the House of Rep-15 resentatives and make available to the public, a report— 16 "(i) identifying the total number of aliens pa-17 roled into the United States under this paragraph 18 during the previous fiscal year; and

- 19 "(ii) containing information and data regarding
  20 all aliens paroled during such fiscal year, includ21 ing—
- 22 "(I) the duration of parole;
- 23 "(II) the type of parole; and

24 "(III) the current status of the aliens so25 paroled.".

#### 1 SEC. 702. IMPLEMENTATION.

2 (a) IN GENERAL.—Except as provided in subsection
3 (b), this title and the amendments made by this title shall
4 take effect on the date that is 30 days after the date of
5 the enactment of this Act.

6 (b) EXCEPTIONS.—Notwithstanding subsection (a),7 each of the following exceptions apply:

8 (1) Any application for parole or advance parole 9 filed by an alien before the date of the enactment of 10 this Act shall be adjudicated under the law that was 11 in effect on the date on which the application was 12 properly filed and any approved advance parole shall 13 remain valid under the law that was in effect on the 14 date on which the advance parole was approved.

15 (2) Section 212(d)(5)(J) of the Immigration
16 and Nationality Act, as added by section 701 of this
17 title, shall take effect on the date of the enactment
18 of this Act.

19 (3) Aliens who were paroled into the United 20 States pursuant to section 212(d)(5)(A) of the Im-21 migration Nationality (8)U.S.C. and Act 22 1182(d)(5)(A) before January 1, 2023, shall con-23 tinue to be subject to the terms of parole that were 24 in effect on the date on which their respective parole 25 was approved.

## 1 SEC. 703. CAUSE OF ACTION.

Any person, State, or local government that experiences financial harm in excess of \$1,000 due to a failure of the Federal Government to lawfully apply the provisions of this title or the amendments made by this title shall have standing to bring a civil action against the Federal Government in an appropriate district court of the United States for appropriate relief.

# 9 SEC. 704. SEVERABILITY.

10 If any provision of this title or any amendment by 11 this title, or the application of such provision or amend-12 ment to any person or circumstance, is held to be uncon-13 stitutional, the remainder of this title and the application 14 of such provision or amendment to any other person or 15 circumstance shall not be affected.

# 16 TITLE VIII—LEGAL WORKFORCE

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

## 18

ESS.

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

22 "(b) EMPLOYMENT ELIGIBILITY VERIFICATION23 PROCESS.—

24 "(1) NEW HIRES, RECRUITMENT, AND REFER25 RAL.—The requirements referred to in paragraphs
26 (1)(B) and (3) of subsection (a) are, in the case of
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1	a person or other entity hiring, recruiting, or refer-
2	ring an individual for employment in the United
3	States, the following:
4	"(A) ATTESTATION AFTER EXAMINATION
5	OF DOCUMENTATION.—
6	"(i) Attestation.—During the
7	verification period (as defined in subpara-
8	graph (E)), the person or entity shall at-
9	test, under penalty of perjury and on a
10	form, including electronic format, des-
11	ignated or established by the Secretary by
12	regulation not later than 6 months after
13	the date of the enactment of title VIII of
14	division B of the Secure the Border Act of
15	2023, that it has verified that the indi-
16	vidual is not an unauthorized alien by—
17	"(I) obtaining from the indi-
18	vidual the individual's social security
19	account number or United States
20	passport number and recording the
21	number on the form (if the individual
22	claims to have been issued such a
23	number), and, if the individual does
24	not attest to United States nationality
25	under subparagraph (B), obtaining

1	such identification or authorization
2	number established by the Depart-
3	ment of Homeland Security for the
4	alien as the Secretary of Homeland
5	Security may specify, and recording
6	such number on the form; and
7	"(II) examining—
8	"(aa) a document relating to
9	the individual presenting it de-
10	scribed in clause (ii); or
11	"(bb) a document relating to
12	the individual presenting it de-
13	scribed in clause (iii) and a docu-
14	ment relating to the individual
15	presenting it described in clause
16	(iv).
17	"(ii) Documents evidencing em-
18	PLOYMENT AUTHORIZATION AND ESTAB-
19	LISHING IDENTITY.—A document de-
20	scribed in this subparagraph is an individ-
21	ual's—
22	"(I) unexpired United States
23	passport or passport card;
24	"(II) unexpired permanent resi-
25	dent card that contains a photograph;

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"(III) unexpired employment authorization card that contains a photograph;

4 "(IV) in the case of a non-5 immigrant alien authorized to work for a specific employer incident to sta-6 7 tus, a foreign passport with Form I– 8 94 or Form I-94A, or other docu-9 mentation as designated by the Sec-10 retary specifying the alien's non-11 immigrant status as long as the pe-12 riod of status has not yet expired and 13 the proposed employment is not in 14 conflict with any restrictions or limita-15 tions identified in the documentation; "(V) passport from the Fed-16 17 erated States of Micronesia (FSM) or

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

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1	"(VI) other document designated
2	by the Secretary of Homeland Secu-
3	rity, if the document—
4	"(aa) contains a photograph
5	of the individual and biometric
6	identification data from the indi-
7	vidual and such other personal
8	identifying information relating
9	to the individual as the Secretary
10	of Homeland Security finds, by
11	regulation, sufficient for purposes
12	of this clause;
13	"(bb) is evidence of author-
14	ization of employment in the
15	United States; and
16	"(cc) contains security fea-
17	tures to make it resistant to tam-
18	pering, counterfeiting, and fraud-
19	ulent use.
20	"(iii) Documents evidencing em-
21	PLOYMENT AUTHORIZATION.—A document
22	described in this subparagraph is an indi-
23	vidual's social security account number
24	card (other than such a card which speci-
25	fies on the face that the issuance of the

1 card does not authorize employment in the 2 United States). 3 "(iv) DOCUMENTS ESTABLISHING 4 IDENTITY OF INDIVIDUAL.—A document 5 described in this subparagraph is— 6 "(I) an individual's unexpired 7 State issued driver's license or identi-8 fication card if it contains a photo-9 graph and information such as name, 10 date of birth, gender, height, eve 11 color, and address; 12 "(II) an individual's unexpired 13 United States military identification 14 card; "(III) an individual's unexpired 15 16 Native American tribal identification 17 document issued by a tribal entity rec-18 ognized by the Bureau of Indian Af-19 fairs; or 20 "(IV) in the case of an individual under 18 years of age, a parent or 21 22 legal guardian's attestation under 23 penalty of law as to the identity and 24 age of the individual.

1	"(v) Authority to prohibit use of
2	CERTAIN DOCUMENTS.—If the Secretary of
3	Homeland Security finds, by regulation,
4	that any document described in clause (i),
5	(ii), or (iii) as establishing employment au-
6	thorization or identity does not reliably es-
7	tablish such authorization or identity or is
8	being used fraudulently to an unacceptable
9	degree, the Secretary may prohibit or place
10	conditions on its use for purposes of this
11	paragraph.
12	"(vi) SIGNATURE.—Such attestation
13	may be manifested by either a handwritten
14	or electronic signature.
15	"(B) INDIVIDUAL ATTESTATION OF EM-
16	PLOYMENT AUTHORIZATION.—During the
17	verification period (as defined in subparagraph
18	(E)), the individual shall attest, under penalty
19	of perjury on the form designated or established
20	for purposes of subparagraph (A), that the indi-
21	vidual is a citizen or national of the United
22	States, an alien lawfully admitted for perma-
23	nent residence, or an alien who is authorized
24	under this Act or by the Secretary of Homeland
25	Security to be hired, recruited, or referred for

1	such employment. Such attestation may be
2	manifested by either a handwritten or electronic
3	signature. The individual shall also provide that
4	individual's social security account number or
5	United States passport number (if the indi-
6	vidual claims to have been issued such a num-
7	ber), and, if the individual does not attest to
8	United States nationality under this subpara-
9	graph, such identification or authorization num-
10	ber established by the Department of Homeland
11	Security for the alien as the Secretary may
12	specify.
13	"(C) RETENTION OF VERIFICATION FORM
14	AND VERIFICATION.—
15	"(i) IN GENERAL.—After completion
16	of such form in accordance with subpara-
17	graphs (A) and (B), the person or entity
18	shall—
19	"(I) retain a paper or electronic
20	version of the form and make it avail-
21	able for inspection by officers of the
22	Department of Homeland Security,
23	the Department of Justice, or the De-
24	partment of Labor during a period be-
25	ginning on the date of the recruiting

1	or referral of the individual, or, in the
2	case of the hiring of an individual, the
3	date on which the verification is com-
4	pleted, and ending—
5	"(aa) in the case of the re-
6	cruiting or referral of an indi-
7	vidual, 3 years after the date of
8	the recruiting or referral; and
9	"(bb) in the case of the hir-
10	ing of an individual, the later of
11	3 years after the date the
12	verification is completed or one
13	year after the date the individ-
14	ual's employment is terminated;
15	and
16	"(II) during the verification pe-
17	riod (as defined in subparagraph (E)),
18	make an inquiry, as provided in sub-
19	section (d), using the verification sys-
20	tem to seek verification of the identity
21	and employment eligibility of an indi-
22	vidual.
23	"(ii) Confirmation.—
24	"(I) Confirmation Re-
25	CEIVED.—If the person or other entity

1	receives an appropriate confirmation
2	of an individual's identity and work
3	eligibility under the verification sys-
4	tem within the time period specified,
5	the person or entity shall record on
6	the form an appropriate code that is
7	provided under the system and that
8	indicates a final confirmation of such
9	identity and work eligibility of the in-
10	dividual.
11	"(II) TENTATIVE NONCONFIRMA-
12	TION RECEIVED.—If the person or
13	other entity receives a tentative non-
14	confirmation of an individual's iden-
15	tity or work eligibility under the
16	verification system within the time pe-
17	riod specified, the person or entity
18	shall so inform the individual for
19	whom the verification is sought. If the
20	individual does not contest the non-
21	confirmation within the time period
22	specified, the nonconfirmation shall be
23	considered final. The person or entity
24	shall then record on the form an ap-
25	propriate code which has been pro-

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

1	comes final. Nothing in this subclause
2	shall apply to a rescission of the offer
3	of employment for any reason other
4	than because of such a failure.
5	"(III) FINAL CONFIRMATION OR
6	NONCONFIRMATION RECEIVED.—If a
7	final confirmation or nonconfirmation
8	is provided by the verification system
9	regarding an individual, the person or
10	entity shall record on the form an ap-
11	propriate code that is provided under
12	the system and that indicates a con-
13	firmation or nonconfirmation of iden-
14	tity and work eligibility of the indi-
15	vidual.
16	"(IV) EXTENSION OF TIME.—If
17	the person or other entity in good
18	faith attempts to make an inquiry
19	during the time period specified and
20	the verification system has registered
21	that not all inquiries were received
22	during such time, the person or entity
23	may make an inquiry in the first sub-
24	sequent working day in which the
25	verification system registers that it

1	has received all inquiries. If the
2	verification system cannot receive in-
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3	quiries at all times during a day, the
4	person or entity merely has to assert
5	that the entity attempted to make the
6	inquiry on that day for the previous
7	sentence to apply to such an inquiry,
8	and does not have to provide any ad-
9	ditional proof concerning such inquiry.
10	"(V) CONSEQUENCES OF NON-
11	CONFIRMATION.—
12	"(aa) TERMINATION OR NO-
13	TIFICATION OF CONTINUED EM-
14	PLOYMENT.—If the person or
15	other entity has received a final
16	nonconfirmation regarding an in-
17	dividual, the person or entity
18	may terminate employment of the
19	individual (or decline to recruit
20	or refer the individual). If the
21	person or entity does not termi-
22	nate employment of the indi-
23	vidual or proceeds to recruit or
24	refer the individual, the person or
25	entity shall notify the Secretary

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1	of Homeland Security of such
2	fact through the verification sys-
3	tem or in such other manner as
4	the Secretary may specify.
5	"(bb) FAILURE TO NO-
6	TIFY.—If the person or entity
7	fails to provide notice with re-
8	spect to an individual as required
9	under item (aa), the failure is
10	deemed to constitute a violation
11	of subsection $(a)(1)(A)$ with re-
12	spect to that individual.
13	"(VI) Continued Employment
14	AFTER FINAL NONCONFIRMATION.—If
15	the person or other entity continues to
16	employ (or to recruit or refer) an indi-
17	vidual after receiving final noncon-
18	firmation, a rebuttable presumption is
19	created that the person or entity has
20	violated subsection $(a)(1)(A)$ .
21	"(D) Effective dates of new proce-
22	DURES.—
23	"(i) HIRING.—Except as provided in
24	clause (iii), the provisions of this para-
25	graph shall apply to a person or other enti-

- 1 ty hiring an individual for employment in 2 the United States as follows: 3 "(I) With respect to employers 4 having 10,000 or more employees in 5 the United States on the date of the 6 enactment of title VIII of division B 7 of the Secure the Border Act of 2023. 8 on the date that is 6 months after the 9 date of the enactment of title. 10 "(II) With respect to employers 11 having 500 or more employees in the 12 United States, but less than 10,000 13 employees in the United States, on 14 the date of the enactment of title VIII 15 of division B of the Secure the Border 16 Act of 2023, on the date that is 12 17 months after the date of the enact-18 ment of such title. 19 "(III) With respect to employers 20 having 20 or more employees in the 21 United States, but less than 500 em-22 ployees in the United States, on the 23 date of the enactment of title VIII of 24 division B of the Secure the Border
- Act of 2023, on the date that is 18

- months after the date of the enactment of such title.
   ment of such title.
   "(IV) With respect to employers
   having one or more employees in the
   United States, but less than 20 employees in the United States, on the
- 0pioyees in the Onited States, on the7date of the enactment of title VIII of8division B of the Secure the Border9Act of 2023, on the date that is 2410months after the date of the enact-11ment of such title.

12 "(ii) Recruiting and referring.— 13 Except as provided in clause (iii), the pro-14 visions of this paragraph shall apply to a 15 person or other entity recruiting or refer-16 ring an individual for employment in the 17 United States on the date that is 12 18 months after the date of the enactment of 19 title VIII of division B of the Secure the 20 Border Act of 2023.

21 "(iii) AGRICULTURAL LABOR OR SERV22 ICES.—With respect to an employee per23 forming agricultural labor or services, this
24 paragraph shall not apply with respect to
25 the verification of the employee until the

1	date that is 36 months after the date of
2	the enactment of title VIII of division B of
3	the Secure the Border Act of 2023. For
4	purposes of the preceding sentence, the
5	term 'agricultural labor or services' has the
6	meaning given such term by the Secretary
7	of Agriculture in regulations and includes
8	agricultural labor as defined in section
9	3121(g) of the Internal Revenue Code of
10	1986, agriculture as defined in section 3(f)
11	of the Fair Labor Standards Act of 1938
12	(29 U.S.C. 203(f)), the handling, planting,
13	drying, packing, packaging, processing,
14	freezing, or grading prior to delivery for
15	storage of any agricultural or horticultural
16	commodity in its unmanufactured state, all
17	activities required for the preparation,
18	processing or manufacturing of a product
19	of agriculture (as such term is defined in
20	such section 3(f)) for further distribution,
21	and activities similar to all the foregoing
22	as they relate to fish or shellfish facilities.
23	An employee described in this clause shall
24	not be counted for purposes of clause (i).
25	"(iv) Extensions.—

1	"(I) ON REQUEST.—Upon re-
2	quest by an employer having 50 or
3	fewer employees, the Secretary shall
4	allow a one-time 6-month extension of
5	the effective date set out in this sub-
6	paragraph applicable to such em-
7	ployer. Such request shall be made to
8	the Secretary and shall be made prior
9	to such effective date.
10	"(II) Following report.—If
11	the study under section 814 of title
12	VIII of division B of the Secure the
13	Border Act of 2023 has been sub-
14	mitted in accordance with such sec-
15	tion, the Secretary of Homeland Secu-
16	rity may extend the effective date set
17	out in clause (iii) on a one-time basis
18	for 12 months.
19	"(v) TRANSITION RULE.—Subject to
20	paragraph (4), the following shall apply to
21	a person or other entity hiring, recruiting,
22	or referring an individual for employment
23	in the United States until the effective
24	date or dates applicable under clauses (i)
25	through (iii):

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1	"(I) This subsection, as in effect
2	before the enactment of title VIII of
3	division B of the Secure the Border
4	Act of 2023.
5	"(II) Subtitle A of title IV of the
6	Illegal Immigration Reform and Im-
7	migrant Responsibility Act of 1996 (8
8	U.S.C. 1324a note), as in effect be-
9	fore the effective date in section
10	807(c) of title VIII of division B of
11	the Secure the Border Act of 2023.
12	"(III) Any other provision of
13	Federal law requiring the person or
14	entity to participate in the E-Verify
15	Program described in section 403(a)
16	of the Illegal Immigration Reform and
17	Immigrant Responsibility Act of 1996
18	(8 U.S.C. 1324a note), as in effect be-
19	fore the effective date in section
20	807(c) of title VIII of division B of
21	the Secure the Border Act of 2023,
22	including Executive Order $13465$ (8)
23	U.S.C. 1324a note; relating to Gov-
24	ernment procurement).
25	"(E) VERIFICATION PERIOD DEFINED.—

- "(i) IN GENERAL.—For purposes of 1 2 this paragraph: 3 "(I) In the case of recruitment or 4 referral, the term 'verification period' 5 means the period ending on the date 6 recruiting or referring commences. 7 "(II) In the case of hiring, the 8 term 'verification period' means the 9 period beginning on the date on which 10 an offer of employment is extended 11 and ending on the date that is three 12 business days after the date of hire, 13 except as provided in clause (iii). The 14 offer of employment may be condi-15 tioned in accordance with clause (ii). 16 "(ii) JOB OFFER MAY BE CONDI-17 TIONAL.—A person or other entity may 18 offer a prospective employee an employ-19 ment position that is conditioned on final 20 verification of the identity and employment 21 eligibility of the employee using the proce-22 dures established under this paragraph. 23 "(iii) SPECIAL RULE.—Notwith-24 standing clause (i)(II), in the case of an
- 25 alien who is authorized for employment

1	and who provides evidence from the Social
2	Security Administration that the alien has
3	applied for a social security account num-
4	ber, the verification period ends three busi-
5	ness days after the alien receives the social
6	security account number.
7	"(2) Reverification for individuals with
8	LIMITED WORK AUTHORIZATION.—
9	"(A) IN GENERAL.—Except as provided in
10	subparagraph (B), a person or entity shall
11	make an inquiry, as provided in subsection (d),
12	using the verification system to seek
13	reverification of the identity and employment
14	eligibility of all individuals with a limited period
15	of work authorization employed by the person
16	or entity during the three business days after
17	the date on which the employee's work author-
18	ization expires as follows:
19	"(i) With respect to employers having
20	10,000 or more employees in the United
21	States on the date of the enactment of title
22	VIII of division B of the Secure the Border
23	Act of 2023, beginning on the date that is
24	6 months after the date of the enactment
25	of such title.

1	"(ii) With respect to employers having
2	500 or more employees in the United
3	States, but less than 10,000 employees in
4	the United States, on the date of the en-
5	actment of title VIII of division B of the
6	Secure the Border Act of 2023, beginning
7	on the date that is 12 months after the
8	date of the enactment of such title.
9	"(iii) With respect to employers hav-
10	ing 20 or more employees in the United
11	States, but less than 500 employees in the
12	United States, on the date of the enact-
13	ment of title VIII of division B of the Se-
14	cure the Border Act of 2023, beginning on
15	the date that is 18 months after the date
16	of the enactment of such title.
17	"(iv) With respect to employers hav-
18	ing one or more employees in the United
19	States, but less than 20 employees in the
20	United States, on the date of the enact-
21	ment of title VIII of division B of the Se-
22	cure the Border Act of 2023, beginning on
23	the date that is 24 months after the date
24	of the enactment of such title.

1	"(B) AGRICULTURAL LABOR OR SERV-
2	ICES.—With respect to an employee performing
3	agricultural labor or services, or an employee
4	recruited or referred by a farm labor contractor
5	(as defined in section 3 of the Migrant and Sea-
6	sonal Agricultural Worker Protection Act (29
7	U.S.C. 1801)), subparagraph (A) shall not
8	apply with respect to the reverification of the
9	employee until the date that is 36 months after
10	the date of the enactment of title VIII of divi-
11	sion B of the Secure the Border Act of 2023.
12	For purposes of the preceding sentence, the
13	term 'agricultural labor or services' has the
14	meaning given such term by the Secretary of
15	Agriculture in regulations and includes agricul-
16	tural labor as defined in section 3121(g) of the
17	Internal Revenue Code of 1986, agriculture as
18	defined in section 3(f) of the Fair Labor Stand-
19	ards Act of 1938 (29 U.S.C. 203(f)), the han-
20	dling, planting, drying, packing, packaging,
21	processing, freezing, or grading prior to delivery
22	for storage of any agricultural or horticultural
23	commodity in its unmanufactured state, all ac-
24	tivities required for the preparation, processing,
25	or manufacturing of a product of agriculture

1	(as such term is defined in such section $3(f)$ )
2	for further distribution, and activities similar to
3	all the foregoing as they relate to fish or shell-
4	fish facilities. An employee described in this
5	subparagraph shall not be counted for purposes
6	of subparagraph (A).
7	"(C) REVERIFICATION.—Paragraph
8	(1)(C)(ii) shall apply to reverifications pursuant
9	to this paragraph on the same basis as it ap-
10	plies to verifications pursuant to paragraph $(1)$ ,
11	except that employers shall—
12	"(i) use a form designated or estab-
13	lished by the Secretary by regulation for
14	purposes of this paragraph; and
15	"(ii) retain a paper or electronic
16	version of the form and make it available
17	for inspection by officers of the Depart-
18	ment of Homeland Security, the Depart-
19	ment of Justice, or the Department of
20	Labor during the period beginning on the
21	date the reverification commences and end-
22	ing on the date that is the later of 3 years
23	after the date of such reverification or 1
24	year after the date the individual's employ-
25	ment is terminated.

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1	"(3) Previously hired individuals.—
2	"(A) ON A MANDATORY BASIS FOR CER-
3	TAIN EMPLOYEES.—
4	"(i) IN GENERAL.—Not later than the
5	date that is 6 months after the date of the
6	enactment of title VIII of division B of the
7	Secure the Border Act of 2023, an em-
8	ployer shall make an inquiry, as provided
9	in subsection (d), using the verification
10	system to seek verification of the identity
11	and employment eligibility of any indi-
12	vidual described in clause (ii) employed by
13	the employer whose employment eligibility
14	has not been verified under the E-Verify
15	Program described in section 403(a) of the
16	Illegal Immigration Reform and Immigrant
17	Responsibility Act of 1996 (8 U.S.C.
18	1324a note).
19	"(ii) Individuals described.—An
20	individual described in this clause is any of
21	the following:
22	"(I) An employee of any unit of
23	a Federal, State, or local government.
24	"(II) An employee who requires a
25	Federal security clearance working in

1	a Federal, State, or local government
2	building, a military base, a nuclear
3	energy site, a weapons site, or an air-
4	port or other facility that requires
5	workers to carry a Transportation
6	Worker Identification Credential
7	(TWIC).
8	"(III) An employee assigned to
9	perform work in the United States
10	under a Federal contract, except that
11	this subclause—
12	"(aa) is not applicable to in-
13	dividuals who have a clearance
14	under Homeland Security Presi-
15	dential Directive 12 (HSPD 12
16	clearance), are administrative or
17	overhead personnel, or are work-
18	ing solely on contracts that pro-
19	vide Commercial Off The Shelf
20	goods or services as set forth by
21	the Federal Acquisition Regu-
22	latory Council, unless they are
23	subject to verification under sub-
24	clause (II); and

1	"(bb) only applies to con-
2	tracts over the simple acquisition
3	threshold as defined in section
4	2.101 of title 48, Code of Federal
5	Regulations.
6	"(B) ON A MANDATORY BASIS FOR MUL-
7	TIPLE USERS OF SAME SOCIAL SECURITY AC-
8	COUNT NUMBER.—In the case of an employer
9	who is required by this subsection to use the
10	verification system described in subsection (d),
11	or has elected voluntarily to use such system,
12	the employer shall make inquiries to the system
13	in accordance with the following:
14	"(i) The Commissioner of Social Secu-
15	rity shall notify annually employees (at the
16	employee address listed on the Wage and
17	Tax Statement) who submit a social secu-
18	rity account number to which more than
19	one employer reports income and for which
20	there is a pattern of unusual multiple use.
21	The notification letter shall identify the
22	number of employers to which income is
23	being reported as well as sufficient infor-
24	mation notifying the employee of the proc-
25	ess to contact the Social Security Adminis-

1	tration Fraud Hotline if the employee be-
2	lieves the employee's identity may have
3	been stolen. The notice shall not share in-
4	formation protected as private, in order to
5	avoid any recipient of the notice from
6	being in the position to further commit or
7	begin committing identity theft.
8	"(ii) If the person to whom the social
9	security account number was issued by the
10	Social Security Administration has been
11	identified and confirmed by the Commis-
12	sioner, and indicates that the social secu-
13	rity account number was used without
14	their knowledge, the Secretary and the
15	Commissioner shall lock the social security
16	account number for employment eligibility
17	verification purposes and shall notify the
18	employers of the individuals who wrong-
19	fully submitted the social security account
20	number that the employee may not be
21	work eligible.
22	"(iii) Each employer receiving such
23	notification of an incorrect social security
24	account number under clause (ii) shall use
25	the verification system described in sub-

1	section (d) to check the work eligibility sta-
2	tus of the applicable employee within 10
3	business days of receipt of the notification.
4	"(C) ON A VOLUNTARY BASIS.—Subject to
5	paragraph (2), and subparagraphs (A) through
6	(C) of this paragraph, beginning on the date
7	that is 30 days after the date of the enactment
8	of title VIII of division B of the Secure the
9	Border Act of 2023, an employer may make an
10	inquiry, as provided in subsection (d), using the
11	verification system to seek verification of the
12	identity and employment eligibility of any indi-
13	vidual employed by the employer. If an em-
14	ployer chooses voluntarily to seek verification of
15	any individual employed by the employer, the
16	employer shall seek verification of all individ-
17	uals employed at the same geographic location
18	or, at the option of the employer, all individuals
19	employed within the same job category, as the
20	employee with respect to whom the employer
21	seeks voluntarily to use the verification system.
22	An employer's decision about whether or not
23	voluntarily to seek verification of its current
24	workforce under this subparagraph may not be
25	considered by any government agency in any

1	proceeding, investigation, or review provided for
2	in this Act.
3	"(D) VERIFICATION.—Paragraph
4	(1)(C)(ii) shall apply to verifications pursuant
5	to this paragraph on the same basis as it ap-
6	plies to verifications pursuant to paragraph (1),
7	except that employers shall—
8	"(i) use a form designated or estab-
9	lished by the Secretary by regulation for
10	purposes of this paragraph; and
11	"(ii) retain a paper or electronic
12	version of the form and make it available
13	for inspection by officers of the Depart-
14	ment of Homeland Security, the Depart-
15	ment of Justice, or the Department of
16	Labor during the period beginning on the
17	date the verification commences and end-
18	ing on the date that is the later of 3 years
19	after the date of such verification or 1 year
20	after the date the individual's employment
21	is terminated.
22	"(4) Early compliance.—
23	"(A) FORMER E-VERIFY REQUIRED USERS,
24	INCLUDING FEDERAL CONTRACTORS.—Notwith-
25	standing the deadlines in paragraphs $(1)$ and

1 (2), beginning on the date of the enactment of 2 title VIII of division B of the Secure the Border 3 Act of 2023, the Secretary is authorized to 4 commence requiring employers required to par-5 ticipate in the E-Verify Program described in 6 section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 7 8 (8 U.S.C. 1324a note), including employers re-9 quired to participate in such program by reason 10 of Federal acquisition laws (and regulations 11 promulgated under those laws, including the 12 Federal Acquisition Regulation), to commence 13 compliance with the requirements of this sub-14 section (and any additional requirements of 15 such Federal acquisition laws and regulation) in 16 lieu of any requirement to participate in the E-17 Verify Program. 18 "(B) FORMER **E-VERIFY** VOLUNTARY

18 (B) FORMER E-VERIFY VOLUNTARY 19 USERS AND OTHERS DESIRING EARLY COMPLI-20 ANCE.—Notwithstanding the deadlines in para-21 graphs (1) and (2), beginning on the date of 22 the enactment of title VIII of division B of the 23 Secure the Border Act of 2023, the Secretary 24 shall provide for the voluntary compliance with 25 the requirements of this subsection by employ-

ers voluntarily electing to participate in the E-1 2 Verify Program described in section 403(a) of 3 the Illegal Immigration Reform and Immigrant 4 Responsibility Act of 1996 (8 U.S.C. 1324a) 5 note) before such date, as well as by other em-6 ployers seeking voluntary early compliance. 7 "(5) COPYING  $\mathbf{OF}$ DOCUMENTATION PER-8 MITTED.—Notwithstanding any other provision of 9 law, the person or entity may copy a document pre-10 sented by an individual pursuant to this subsection 11 and may retain the copy, but only (except as other-12 wise permitted under law) for the purpose of com-13 plying with the requirements of this subsection. 14 "(6) LIMITATION ON USE OF FORMS.—A form

designated or established by the Secretary of Homeland Security under this subsection and any information contained in or appended to such form, may
not be used for purposes other than for enforcement
of this Act and any other provision of Federal criminal law.

21 "(7) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as otherwise
provided in this subsection, a person or entity
is considered to have complied with a requirement of this subsection notwithstanding a tech-

1	nical or procedural failure to meet such require-
2	ment if there was a good faith attempt to com-
3	ply with the requirement.
4	"(B) EXCEPTION IF FAILURE TO CORRECT
5	AFTER NOTICE.—Subparagraph (A) shall not
6	apply if—
7	"(i) the failure is not de minimus;
8	"(ii) the Secretary of Homeland Secu-
9	rity has explained to the person or entity
10	the basis for the failure and why it is not
11	de minimus;
12	"(iii) the person or entity has been
13	provided a period of not less than 30 cal-
14	endar days (beginning after the date of the
15	explanation) within which to correct the
16	failure; and
17	"(iv) the person or entity has not cor-
18	rected the failure voluntarily within such
19	period.
20	"(C) EXCEPTION FOR PATTERN OR PRAC-
21	TICE VIOLATORS.—Subparagraph (A) shall not
22	apply to a person or entity that has engaged or
23	is engaging in a pattern or practice of violations
24	of subsection $(a)(1)(A)$ or $(a)(2)$ .

1 "(8) SINGLE EXTENSION OF DEADLINES UPON 2 CERTIFICATION.—In a case in which the Secretary 3 of Homeland Security has certified to the Congress 4 that the employment eligibility verification system 5 required under subsection (d) will not be fully oper-6 ational by the date that is 6 months after the date 7 of the enactment of title VIII of division B of the 8 Secure the Border Act of 2023, each deadline estab-9 lished under this section for an employer to make an 10 inquiry using such system shall be extended by 6 11 months. No other extension of such a deadline shall 12 be made except as authorized under paragraph 13 (1)(D)(iv).".

(b) DATE OF HIRE.—Section 274A(h) of the Immi15 gration and Nationality Act (8 U.S.C. 1324a(h)) is
16 amended by adding at the end the following:

17 "(4) DEFINITION OF DATE OF HIRE.—As used
18 in this section, the term 'date of hire' means the
19 date of actual commencement of employment for
20 wages or other remuneration, unless otherwise speci21 fied.".

# 22 SEC. 802. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-23 TEM.

24 Section 274A(d) of the Immigration and Nationality
25 Act (8 U.S.C. 1324a(d)) is amended to read as follows:

1 "(d) Employment Eligibility Verification Sys-2 Tem.—

3 "(1) IN GENERAL.—Patterned on the employ-4 ment eligibility confirmation system established 5 under section 404 of the Illegal Immigration Reform 6 and Immigrant Responsibility Act of 1996 (8 U.S.C. 7 1324a note), the Secretary of Homeland Security 8 shall establish and administer a verification system 9 through which the Secretary (or a designee of the 10 Secretary, which may be a nongovernmental enti-11 ty)---

"(A) responds to inquiries made by persons at any time through a toll-free electronic
media concerning an individual's identity and
whether the individual is authorized to be employed; and

"(B) maintains records of the inquiries
that were made, of verifications provided (or
not provided), and of the codes provided to inquirers as evidence of their compliance with
their obligations under this section.

"(2) INITIAL RESPONSE.—The verification system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial

inquiry. If providing confirmation or tentative non confirmation, the verification system shall provide an
 appropriate code indicating such confirmation or
 such nonconfirmation.

"(3) Secondary confirmation process in 5 6 CASE OF TENTATIVE NONCONFIRMATION.—In cases 7 of tentative nonconfirmation, the Secretary shall 8 specify, in consultation with the Commissioner of 9 Social Security, an available secondary verification 10 process to confirm the validity of information pro-11 vided and to provide a final confirmation or noncon-12 firmation not later than 10 working days after the 13 date on which the notice of the tentative noncon-14 firmation is received by the employee. The Secretary, 15 in consultation with the Commissioner, may extend 16 this deadline once on a case-by-case basis for a pe-17 riod of 10 working days, and if the time is extended, 18 shall document such extension within the verification 19 system. The Secretary, in consultation with the 20 Commissioner, shall notify the employee and em-21 ployer of such extension. The Secretary, in consulta-22 tion with the Commissioner, shall create a standard 23 process of such extension and notification and shall 24 make a description of such process available to the 25 public. When final confirmation or nonconfirmation

1	is provided, the verification system shall provide an
2	appropriate code indicating such confirmation or
3	nonconfirmation.
4	"(4) Design and operation of system.—
5	The verification system shall be designed and oper-
6	ated—
7	"(A) to maximize its reliability and ease of
8	use by persons and other entities consistent
9	with insulating and protecting the privacy and
10	security of the underlying information;
11	"(B) to respond to all inquiries made by
12	such persons and entities on whether individ-
13	uals are authorized to be employed and to reg-
14	ister all times when such inquiries are not re-
15	ceived;
16	"(C) with appropriate administrative, tech-
17	nical, and physical safeguards to prevent unau-
18	thorized disclosure of personal information;
19	"(D) to have reasonable safeguards against
20	the system's resulting in unlawful discrimina-
21	tory practices based on national origin or citi-
22	zenship status, including—
23	"(i) the selective or unauthorized use
24	of the system to verify eligibility; or

1	"(ii) the exclusion of certain individ-
2	uals from consideration for employment as
3	a result of a perceived likelihood that addi-
4	tional verification will be required, beyond
5	what is required for most job applicants;
6	"(E) to maximize the prevention of iden-
7	tity theft use in the system; and
8	"(F) to limit the subjects of verification to
9	the following individuals:
10	"(i) Individuals hired, referred, or re-
11	cruited, in accordance with paragraph $(1)$
12	or (4) of subsection (b).
13	"(ii) Employees and prospective em-
14	ployees, in accordance with paragraph $(1)$ ,
15	(2), $(3)$ , or $(4)$ of subsection (b).
16	"(iii) Individuals seeking to confirm
17	their own employment eligibility on a vol-
18	untary basis.
19	"(5) Responsibilities of commissioner of
20	Social security.—As part of the verification sys-
21	tem, the Commissioner of Social Security, in con-
22	sultation with the Secretary of Homeland Security
23	(and any designee of the Secretary selected to estab-
24	lish and administer the verification system), shall es-
25	tablish a reliable, secure method, which, within the

1 time periods specified under paragraphs (2) and (3), 2 compares the name and social security account num-3 ber provided in an inquiry against such information 4 maintained by the Commissioner in order to validate 5 (or not validate) the information provided regarding 6 an individual whose identity and employment eligi-7 bility must be confirmed, the correspondence of the 8 name and number, and whether the individual has 9 presented a social security account number that is 10 not valid for employment. The Commissioner shall 11 not disclose or release social security information 12 (other than such confirmation or nonconfirmation) 13 under the verification system except as provided for 14 in this section or section 205(c)(2)(I) of the Social 15 Security Act.

"(6) **Responsibilities** of 16 SECRETARY  $\mathbf{OF}$ 17 HOMELAND SECURITY.—As part of the verification 18 system, the Secretary of Homeland Security (in con-19 sultation with any designee of the Secretary selected 20 to establish and administer the verification system), 21 shall establish a reliable, secure method, which, with-22 in the time periods specified under paragraphs (2) 23 and (3), compares the name and alien identification 24 or authorization number (or any other information 25 as determined relevant by the Secretary) which are

provided in an inquiry against such information 1 2 maintained or accessed by the Secretary in order to 3 validate (or not validate) the information provided, 4 the correspondence of the name and number, wheth-5 er the alien is authorized to be employed in the 6 United States, or to the extent that the Secretary 7 determines to be feasible and appropriate, whether 8 the records available to the Secretary verify the 9 identity or status of a national of the United States. 10 "(7) UPDATING INFORMATION.—The Commis-

sioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in paragraph (3).

18 "(8) LIMITATION ON USE OF THE
19 VERIFICATION SYSTEM AND ANY RELATED SYS20 TEMS.—

21 "(A) NO NATIONAL IDENTIFICATION
22 CARD.—Nothing in this section shall be con23 strued to authorize, directly or indirectly, the
24 issuance or use of national identification cards

or the establishment of a national identification card.

"(B) 3 CRITICAL INFRASTRUCTURE.—The 4 Secretary may authorize or direct any person or 5 entity responsible for granting access to, pro-6 tecting, securing, operating, administering, or 7 regulating part of the critical infrastructure (as 8 defined in section 1016(e) of the Critical Infra-9 structure Protection Act of 2001 (42 U.S.C. 10 5195c(e)) to use the verification system to the 11 extent the Secretary determines that such use 12 will assist in the protection of the critical infra-13 structure.

14 "(9) REMEDIES.—If an individual alleges that 15 the individual would not have been dismissed from 16 a job or would have been hired for a job but for an 17 error of the verification mechanism, the individual 18 may seek compensation only through the mechanism 19 of the Federal Tort Claims Act, and injunctive relief 20 to correct such error. No class action may be 21 brought under this paragraph.".

# 22 SEC. 803. RECRUITMENT, REFERRAL, AND CONTINUATION 23 OF EMPLOYMENT.

24 (a) Additional Changes to Rules for Recruit-25 MENT, REFERRAL, AND CONTINUATION OF EMPLOY-

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1	MENT.—Section 274A(a) of the Immigration and Nation-
2	ality Act (8 U.S.C. 1324a(a)) is amended—
3	(1) in paragraph (1)(A), by striking "for a fee";
4	(2) in paragraph $(1)$ , by amending subpara-
5	graph (B) to read as follows:
6	"(B) to hire, continue to employ, or to re-
7	cruit or refer for employment in the United
8	States an individual without complying with the
9	requirements of subsection (b)."; and
10	(3) in paragraph (2), by striking "after hiring
11	an alien for employment in accordance with para-
12	graph (1)," and inserting "after complying with
13	paragraph (1),".
14	(b) DEFINITION.—Section 274A(h) of the Immigra-
15	tion and Nationality Act (8 U.S.C. 1324a(h)), as amended
16	by section 801(b) of this title, is further amended by add-
17	ing at the end the following:
18	"(5) Definition of recruit or refer.—As
19	used in this section, the term 'refer' means the act
20	of sending or directing a person who is in the United
21	States or transmitting documentation or information
22	to another, directly or indirectly, with the intent of
23	obtaining employment in the United States for such
24	person. Only persons or entities referring for remu-
25	neration (whether on a retainer or contingency

1 basis) are included in the definition, except that 2 union hiring halls that refer union members or non-3 union individuals who pay union membership dues 4 are included in the definition whether or not they re-5 ceive remuneration, as are labor service entities or 6 labor service agencies, whether public, private, for-7 profit, or nonprofit, that refer, dispatch, or other-8 wise facilitate the hiring of laborers for any period 9 of time by a third party. As used in this section, the 10 term 'recruit' means the act of soliciting a person who is in the United States, directly or indirectly, 11 12 and referring the person to another with the intent 13 of obtaining employment for that person. Only per-14 sons or entities referring for remuneration (whether 15 on a retainer or contingency basis) are included in 16 the definition, except that union hiring halls that 17 refer union members or nonunion individuals who 18 pay union membership dues are included in this defi-19 nition whether or not they receive remuneration, as 20 are labor service entities or labor service agencies, 21 whether public, private, for-profit, or nonprofit that 22 recruit, dispatch, or otherwise facilitate the hiring of 23 laborers for any period of time by a third party.". 24 (c) EFFECTIVE DATE.—The amendments made by 25 this section shall take effect on the date that is 1 year after the date of the enactment of this Act, except that
 the amendments made by subsection (a) shall take effect
 6 months after the date of the enactment of this Act inso far as such amendments relate to continuation of employ ment.

### 6 SEC. 804. GOOD FAITH DEFENSE.

7 Section 274A(a)(3) of the Immigration and Nation8 ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as
9 follows:

- 10 "(3) GOOD FAITH DEFENSE.—
- "(A) DEFENSE.—An employer (or person
  or entity that hires, employs, recruits, or refers
  (as defined in subsection (h)(5)), or is otherwise
  obligated to comply with this section) who establishes that it has complied in good faith with
  the requirements of subsection (b)—
- 17 "(i) shall not be liable to a job appli-18 cant, an employee, the Federal Govern-19 ment, or a State or local government, 20 under Federal, State, or local criminal or 21 civil law for any employment-related action 22 taken with respect to a job applicant or 23 employee in good-faith reliance on informa-24 tion provided through the system estab-25 lished under subsection (d); and

1	"(ii) has established compliance with
2	its obligations under subparagraphs (A)
3	and (B) of paragraph (1) and subsection
4	(b) absent a showing by the Secretary of
5	Homeland Security, by clear and con-
6	vincing evidence, that the employer had
7	knowledge that an employee is an unau-
8	thorized alien.
9	"(B) MITIGATION ELEMENT.—For pur-
10	poses of subparagraph (A)(i), if an employer
11	proves by a preponderance of the evidence that
12	the employer uses a reasonable, secure, and es-
13	tablished technology to authenticate the identity
14	of the new employee, that fact shall be taken
15	into account for purposes of determining good
16	faith use of the system established under sub-
17	section (d).
18	"(C) FAILURE TO SEEK AND OBTAIN
19	VERIFICATION.—Subject to the effective dates
20	and other deadlines applicable under subsection
21	(b), in the case of a person or entity in the
22	United States that hires, or continues to em-
23	ploy, an individual, or recruits or refers an indi-
24	vidual for employment, the following require-
25	ments apply:

1	"(i) FAILURE TO SEEK
2	VERIFICATION.—
3	"(I) IN GENERAL.—If the person
4	or entity has not made an inquiry,
5	under the mechanism established
6	under subsection (d) and in accord-
7	ance with the timeframes established
8	under subsection (b), seeking
9	verification of the identity and work
10	eligibility of the individual, the de-
11	fense under subparagraph (A) shall
12	not be considered to apply with re-
13	spect to any employment, except as
14	provided in subclause (II).
15	"(II) SPECIAL RULE FOR FAIL-
16	URE OF VERIFICATION MECHANISM.—
17	If such a person or entity in good
18	faith attempts to make an inquiry in
19	order to qualify for the defense under
20	subparagraph (A) and the verification
21	mechanism has registered that not all
22	inquiries were responded to during the
23	relevant time, the person or entity can
24	make an inquiry until the end of the
25	first subsequent working day in which

the verification mechanism registers
 no nonresponses and qualify for such
 defense.

"(ii) 4 FAILURE то OBTAIN VERIFICATION.—If the person or entity 5 6 has made the inquiry described in clause 7 (i)(I) but has not received an appropriate 8 verification of such identity and work eligi-9 bility under such mechanism within the 10 time period specified under subsection 11 (d)(2) after the time the verification in-12 quiry was received, the defense under sub-13 paragraph (A) shall not be considered to 14 apply with respect to any employment after 15 the end of such time period.".

16 SEC. 805. PREEMPTION AND STATES' RIGHTS.

17 Section 274A(h)(2) of the Immigration and Nation18 ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as
19 follows:

20 "(2) PREEMPTION.—

21 "(A) SINGLE, NATIONAL POLICY.—The
22 provisions of this section preempt any State or
23 local law, ordinance, policy, or rule, including
24 any criminal or civil fine or penalty structure,
25 insofar as they may now or hereafter relate to

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1	the hiring, continued employment, or status
2	verification for employment eligibility purposes,
3	of unauthorized aliens.
4	"(B) STATE ENFORCEMENT OF FEDERAL
5	LAW.—
6	"(i) BUSINESS LICENSING.—A State,
7	locality, municipality, or political subdivi-
8	sion may exercise its authority over busi-
9	ness licensing and similar laws as a pen-
10	alty for failure to use the verification sys-
11	tem described in subsection (d) to verify
12	employment eligibility when and as re-
13	quired under subsection (b).
14	"(ii) GENERAL RULES.—A State, at
15	its own cost, may enforce the provisions of
16	this section, but only insofar as such State
17	follows the Federal regulations imple-
18	menting this section, applies the Federal
19	penalty structure set out in this section,
20	and complies with all Federal rules and
21	guidance concerning implementation of this
22	section. Such State may collect any fines
23	assessed under this section. An employer
24	may not be subject to enforcement, includ-
25	ing audit and investigation, by both a Fed-

1 eral agency and a State for the same viola-2 tion under this section. Whichever entity, 3 the Federal agency or the State, is first to 4 initiate the enforcement action, has the 5 right of first refusal to proceed with the 6 enforcement action. The Secretary must 7 provide copies of all guidance, training, 8 and field instructions provided to Federal 9 officials implementing the provisions of 10 this section to each State.".

11 SEC. 806. REPEAL.

(a) IN GENERAL.—Subtitle A of title IV of the Illegal
Immigration Reform and Immigrant Responsibility Act of
1996 (8 U.S.C. 1324a note) is repealed.

15 (b) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of au-16 17 thority, or any document of, or pertaining to, the Department of Homeland Security, Department of Justice, or the 18 19 Social Security Administration, to the employment eligi-20 bility confirmation system established under section 404 21 of the Illegal Immigration Reform and Immigrant Respon-22 sibility Act of 1996 (8 U.S.C. 1324a note) is deemed to 23 refer to the employment eligibility confirmation system es-24 tablished under section 274A(d) of the Immigration and 25 Nationality Act, as amended by section 802 of this title. (c) EFFECTIVE DATE.—This section shall take effect
 on the date that is 30 months after the date of the enact ment of this Act.

4 (d) CLERICAL AMENDMENT.—The table of sections,
5 in section 1(d) of the Illegal Immigration Reform and Im6 migrant Responsibility Act of 1996, is amended by strik7 ing the items relating to subtitle A of title IV.

### 8 SEC. 807. PENALTIES.

9 Section 274A of the Immigration and Nationality Act
10 (8 U.S.C. 1324a) is amended—

11 (1) in subsection (e)(1)—

12 (A) by striking "Attorney General" each
13 place such term appears and inserting "Sec14 retary of Homeland Security"; and

(B) in subparagraph (D), by striking
"Service" and inserting "Department of Homeland Security";

18 (2) in subsection (e)(4)—

19 (A) in subparagraph (A), in the matter be20 fore clause (i), by inserting ", subject to para21 graph (10)," after "in an amount";

(B) in subparagraph (A)(i), by striking
"not less than \$250 and not more than
\$2,000" and inserting "not less than \$2,500
and not more than \$5,000";

1	(C) in subparagraph (A)(ii), by striking
2	"not less than \$2,000 and not more than
3	\$5,000" and inserting "not less than $$5,000$
4	and not more than \$10,000";
5	(D) in subparagraph (A)(iii), by striking
6	"not less than \$3,000 and not more than
7	10,000 and inserting "not less than $10,000$
8	and not more than \$25,000"; and
9	(E) by moving the margin of the continu-
10	ation text following subparagraph (B) two ems
11	to the left and by amending subparagraph (B)
12	to read as follows:
13	"(B) may require the person or entity to
14	take such other remedial action as is appro-
15	priate.";
16	(3) in subsection (e)(5)—
17	(A) in the paragraph heading, strike "PA-
18	PERWORK";
19	(B) by inserting ", subject to paragraphs
20	(10) through (12)," after "in an amount";
21	(C) by striking "\$100" and inserting
22	``\$1,000'';
23	(D) by striking "\$1,000" and inserting
24	"\$25,000"; and

1 (E) by adding at the end the following: 2 "Failure by a person or entity to utilize the em-3 ployment eligibility verification system as re-4 quired by law, or providing information to the 5 system that the person or entity knows or rea-6 sonably believes to be false, shall be treated as 7 a violation of subsection (a)(1)(A).";

8 (4) by adding at the end of subsection (e) the9 following:

10 "(10) EXEMPTION FROM PENALTY FOR GOOD 11 FAITH VIOLATION.—In the case of imposition of a 12 civil penalty under paragraph (4)(A) with respect to 13 a violation of subsection (a)(1)(A) or (a)(2) for hir-14 ing or continuation of employment or recruitment or 15 referral by person or entity and in the case of impo-16 sition of a civil penalty under paragraph (5) for a 17 violation of subsection (a)(1)(B) for hiring or re-18 cruitment or referral by a person or entity, the pen-19 alty otherwise imposed may be waived or reduced if 20 the violator establishes that the violator acted in 21 good faith.

"(11) MITIGATION ELEMENT.—For purposes of
paragraph (4), the size of the business shall be
taken into account when assessing the level of civil
money penalty.

"(12) AUTHORITY TO DEBAR EMPLOYERS FOR
 CERTAIN VIOLATIONS.—

3 "(A) IN GENERAL.—If a person or entity 4 is determined by the Secretary of Homeland Se-5 curity to be a repeat violator of paragraph 6 (1)(A) or (2) of subsection (a), or is convicted 7 of a crime under this section, such person or 8 entity may be considered for debarment from 9 the receipt of Federal contracts, grants, or co-10 operative agreements in accordance with the de-11 barment standards and pursuant to the debar-12 ment procedures set forth in the Federal Acqui-13 sition Regulation.

14 "(B) DOES NOT HAVE CONTRACT, GRANT, 15 AGREEMENT.—If the Secretary of Homeland Security or the Attorney General wishes to have 16 17 a person or entity considered for debarment in 18 accordance with this paragraph, and such a 19 person or entity does not hold a Federal con-20 tract, grant, or cooperative agreement, the Sec-21 retary or Attorney General shall refer the mat-22 ter to the Administrator of General Services to 23 determine whether to list the person or entity on the List of Parties Excluded from Federal 24

Procurement, and if so, for what duration and under what scope.

"(C) HAS CONTRACT, GRANT, AGREE-3 4 MENT.—If the Secretary of Homeland Security 5 or the Attorney General wishes to have a per-6 son or entity considered for debarment in accordance with this paragraph, and such person 7 8 or entity holds a Federal contract, grant, or co-9 operative agreement, the Secretary or Attorney 10 General shall advise all agencies or departments 11 holding a contract, grant, or cooperative agree-12 ment with the person or entity of the Govern-13 ment's interest in having the person or entity 14 considered for debarment, and after soliciting 15 and considering the views of all such agencies 16 and departments, the Secretary or Attorney 17 General may refer the matter to any appro-18 priate lead agency to determine whether to list 19 the person or entity on the List of Parties Ex-20 cluded from Federal Procurement, and if so, for 21 what duration and under what scope.

"(D) REVIEW.—Any decision to debar a
person or entity in accordance with this paragraph shall be reviewable pursuant to part 9.4
of the Federal Acquisition Regulation.

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"(13) Office for state and local govern-
MENT COMPLAINTS.—The Secretary of Homeland
Security shall establish an office—
"(A) to which State and local government
agencies may submit information indicating po-
tential violations of subsection (a), (b), or
(g)(1) that were generated in the normal course
of law enforcement or the normal course of
other official activities in the State or locality;
"(B) that is required to indicate to the
complaining State or local agency within five
business days of the filing of such a complaint
by identifying whether the Secretary will fur-
ther investigate the information provided;
"(C) that is required to investigate those
complaints filed by State or local government
agencies that, on their face, have a substantial
probability of validity;
"(D) that is required to notify the com-
plaining State or local agency of the results of
any such investigation conducted; and
"(E) that is required to report to the Con-
gress annually the number of complaints re-
ceived under this paragraph, the States and lo-

calities that filed such complaints, and the reso-

1	lution of the complaints investigated by the Sec-
2	retary."; and
3	(5) by amending paragraph $(1)$ of subsection $(f)$
4	to read as follows:
5	"(1) CRIMINAL PENALTY.—Any person or enti-
6	ty which engages in a pattern or practice of viola-
7	tions of subsection (a) (1) or (2) shall be fined not
8	more than $$5,000$ for each unauthorized alien with
9	respect to which such a violation occurs, imprisoned
10	for not more than 18 months, or both, notwith-
11	standing the provisions of any other Federal law re-
12	lating to fine levels.".
14	
13	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS.
13	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS.
13 14	<b>SEC. 808. FRAUD AND MISUSE OF DOCUMENTS.</b> Section 1546(b) of title 18, United States Code, is
13 14 15	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended—
13 14 15 16	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification
13 14 15 16 17	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification document," and inserting "identification document
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> </ol>	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification document," and inserting "identification document or document to establish work authorization
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> </ol>	<ul> <li>SEC. 808. FRAUD AND MISUSE OF DOCUMENTS.</li> <li>Section 1546(b) of title 18, United States Code, is amended— <ul> <li>(1) in paragraph (1), by striking "identification document," and inserting "identification document or document to establish work authorization (including the documents described in section)</li> </ul> </li> </ul>
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	SEC. SOS. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification document," and inserting "identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),";
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification document," and inserting "identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),"; and
<ol> <li>13</li> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	SEC. 808. FRAUD AND MISUSE OF DOCUMENTS. Section 1546(b) of title 18, United States Code, is amended— (1) in paragraph (1), by striking "identification document," and inserting "identification document or document meant to establish work authorization (including the documents described in section 274A(b) of the Immigration and Nationality Act),"; and (2) in paragraph (2), by striking "identification

	200
1	cluding the documents described in section $274A(b)$
2	of the Immigration and Nationality Act),".
3	SEC. 809. PROTECTION OF SOCIAL SECURITY ADMINISTRA-
4	TION PROGRAMS.
5	(a) Funding Under Agreement.—Effective for
6	fiscal years beginning on or after October 1, 2023, the
7	Commissioner of Social Security and the Secretary of
8	Homeland Security shall enter into and maintain an
9	agreement which shall—
10	(1) provide funds to the Commissioner for the
11	full costs of the responsibilities of the Commissioner
12	under section 274A(d) of the Immigration and Na-
13	tionality Act (8 U.S.C. 1324a(d)), as amended by
14	section 802 of this title, including—
15	(A) acquiring, installing, and maintaining
16	technological equipment and systems necessary
17	for the fulfillment of the responsibilities of the
18	Commissioner under such section 274A(d), but
19	only that portion of such costs that are attrib-
20	utable exclusively to such responsibilities; and
21	(B) responding to individuals who contest
22	a tentative nonconfirmation provided by the em-
23	ployment eligibility verification system estab-
24	lished under such section;

1 (2) provide such funds annually in advance of 2 the applicable quarter based on estimating method-3 ology agreed to by the Commissioner and the Sec-4 retary (except in such instances where the delayed 5 enactment of an annual appropriation may preclude 6 such quarterly payments); and 7 (2) end (2) end (3) end (3) end (4) end (4)

7 (3) require an annual accounting and reconcili8 ation of the actual costs incurred and the funds pro9 vided under the agreement, which shall be reviewed
10 by the Inspectors General of the Social Security Ad11 ministration and the Department of Homeland Secu12 rity.

13 (b) CONTINUATION OF EMPLOYMENT VERIFICATION IN ABSENCE OF TIMELY AGREEMENT.-In any case in 14 15 which the agreement required under subsection (a) for any fiscal year beginning on or after October 1, 2023, has not 16 17 been reached as of October 1 of such fiscal year, the latest 18 agreement between the Commissioner and the Secretary 19 of Homeland Security providing for funding to cover the 20 costs of the responsibilities of the Commissioner under 21 section 274A(d) of the Immigration and Nationality Act 22 (8 U.S.C. 1324a(d)) shall be deemed in effect on an in-23 terim basis for such fiscal year until such time as an 24 agreement required under subsection (a) is subsequently 25 reached, except that the terms of such interim agreement

shall be modified by the Director of the Office of Manage-1 2 ment and Budget to adjust for inflation and any increase 3 or decrease in the volume of requests under the employ-4 ment eligibility verification system. In any case in which 5 an interim agreement applies for any fiscal year under this 6 subsection, the Commissioner and the Secretary shall, not 7 later than October 1 of such fiscal year, notify the Com-8 mittee on Ways and Means, the Committee on the Judici-9 ary, and the Committee on Appropriations of the House 10 of Representatives and the Committee on Finance, the Committee on the Judiciary, and the Committee on Ap-11 propriations of the Senate of the failure to reach the 12 agreement required under subsection (a) for such fiscal 13 14 year. Until such time as the agreement required under 15 subsection (a) has been reached for such fiscal year, the Commissioner and the Secretary shall, not later than the 16 17 end of each 90-day period after October 1 of such fiscal year, notify such Committees of the status of negotiations 18 19 between the Commissioner and the Secretary in order to 20 reach such an agreement.

## 21 SEC. 810. FRAUD PREVENTION.

(a) BLOCKING MISUSED SOCIAL SECURITY ACCOUNT
NUMBERS.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall
establish a program in which social security account num-

bers that have been identified to be subject to unusual 1 2 multiple use in the employment eligibility verification sys-3 tem established under section 274A(d) of the Immigration 4 and Nationality Act (8 U.S.C. 1324a(d)), as amended by 5 section 802 of this title, or that are otherwise suspected or determined to have been compromised by identity fraud 6 7 or other misuse, shall be blocked from use for such system 8 purposes unless the individual using such number is able 9 to establish, through secure and fair additional security 10 procedures, that the individual is the legitimate holder of the number. 11

12 (b) Allowing Suspension of Use of Certain So-13 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of Homeland Security, in consultation with the Commis-14 15 sioner of Social Security, shall establish a program which shall provide a reliable, secure method by which victims 16 17 of identity fraud and other individuals may suspend or limit the use of their social security account number or 18 other identifying information for purposes of the employ-19 ment eligibility verification system established under sec-20 21 tion 274A(d) of the Immigration and Nationality Act (8) 22 U.S.C. 1324a(d)), as amended by section 802 of this title. 23 The Secretary may implement the program on a limited 24 pilot program basis before making it fully available to all individuals. 25

1 (c) Allowing Parents To Prevent Theft of 2 THEIR CHILD'S IDENTITY.—The Secretary of Homeland 3 Security, in consultation with the Commissioner of Social 4 Security, shall establish a program which shall provide a 5 reliable, secure method by which parents or legal guardians may suspend or limit the use of the social security 6 7 account number or other identifying information of a 8 minor under their care for the purposes of the employment 9 eligibility verification system established under 274A(d) of 10 the Immigration and Nationality Act (8 U.S.C. 1324a(d)), as amended by section 802 of this title. The Secretary may 11 12 implement the program on a limited pilot program basis 13 before making it fully available to all individuals.

# 14 SEC.811.USEOFEMPLOYMENTELIGIBILITY15VERIFICATION PHOTO TOOL.

16 An employer who uses the photo matching tool used 17 as part of the E-Verify System shall match the photo tool 18 photograph to both the photograph on the identity or em-19 ployment eligibility document provided by the employee 20 and to the face of the employee submitting the document 21 for employment verification purposes.

# 22 SEC. 812. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI23 BILITY VERIFICATION PILOT PROGRAMS.

Not later than 24 months after the date of the enact-25 ment of this Act, the Secretary of Homeland Security,

after consultation with the Commissioner of Social Secu-1 2 rity and the Director of the National Institute of Stand-3 ards and Technology, shall establish by regulation not less 4 than 2 Identity Authentication Employment Eligibility 5 Verification pilot programs, each using a separate and distinct technology (the "Authentication Pilots"). The pur-6 7 pose of the Authentication Pilots shall be to provide for 8 identity authentication and employment eligibility 9 verification with respect to enrolled new employees which 10 shall be available to any employer that elects to participate in either of the Authentication Pilots. Any participating 11 12 employer may cancel the employer's participation in the 13 Authentication Pilot after one year after electing to par-14 ticipate without prejudice to future participation. The Sec-15 retary shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the 16 17 Judiciary of the Senate the Secretary's findings on the Authentication Pilots, including the authentication tech-18 19 nologies chosen, not later than 12 months after com-20mencement of the Authentication Pilots.

## 21 SEC. 813. INSPECTOR GENERAL AUDITS.

(a) IN GENERAL.—Not later than 1 year after the
date of the enactment of this Act, the Inspector General
of the Social Security Administration shall complete audits
of the following categories in order to uncover evidence

of individuals who are not authorized to work in the
 United States:

3 (1) Workers who dispute wages reported on
4 their social security account number when they be5 lieve someone else has used such number and name
6 to report wages.

7 (2) Children's social security account numbers8 used for work purposes.

9 (3) Employers whose workers present signifi10 cant numbers of mismatched social security account
11 numbers or names for wage reporting.

12 (b) SUBMISSION.—The Inspector General of the So-13 cial Security Administration shall submit the audits completed under subsection (a) to the Committee on Ways and 14 15 Means of the House of Representatives and the Committee on Finance of the Senate for review of the evidence of 16 individuals who are not authorized to work in the United 17 18 States. The Chairmen of those Committees shall then de-19 termine information to be shared with the Secretary of 20 Homeland Security so that such Secretary can investigate 21 the unauthorized employment demonstrated by such evi-22 dence.

### 23 SEC. 814. AGRICULTURE WORKFORCE STUDY.

Not later than 36 months after the date of the enact-25 ment of this Act, the Secretary of the Department of

1	Homeland Security, in consultation with the Secretary of
2	the Department of Agriculture, shall submit to the Com-
3	mittee on the Judiciary of the House of Representatives
4	and the Committee on the Judiciary of the Senate, a re-
5	port that includes the following:
6	(1) The number of individuals in the agricul-
7	tural workforce.
8	(2) The number of United States citizens in the
9	agricultural workforce.
10	(3) The number of aliens in the agricultural
11	workforce who are authorized to work in the United
12	States.
13	(4) The number of aliens in the agricultural
14	workforce who are not authorized to work in the
15	United States.
16	(5) Wage growth in each of the previous ten
17	years, disaggregated by agricultural sector.
18	(6) The percentage of total agricultural indus-
19	try costs represented by agricultural labor during
20	each of the last ten years.
21	(7) The percentage of agricultural costs in-
22	vested in mechanization during each of the last ten
23	years.
24	(8) Recommendations, other than a path to
25	legal status for aliens not authorized to work in the

1	United States, for ensuring United States agricul-
2	tural employers have a workforce sufficient to cover
3	industry needs, including recommendations to—
4	(A) increase investments in mechanization;
5	(B) increase the domestic workforce; and
6	(C) reform the H–2A program.
7	SEC. 815. SENSE OF CONGRESS ON FURTHER IMPLEMENTA-
8	TION.
9	It is the sense of Congress that in implementing the

9 It is the sense of Congress that in implementing the 10 E-Verify Program, the Secretary of Homeland Security 11 shall ensure any adverse impact on the Nation's agricul-12 tural workforce, operations, and food security are consid-13 ered and addressed.

### 14 SEC. 816. REPEALING REGULATIONS.

15 The rules relating to "Temporary Agricultural Employment of H–2A Nonimmigrants in the United States" 16 (87 Fed. Reg. 61660 (Oct. 12, 2022)) and to "Adverse 17 18 Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupa-19 tions in the United States" (88 Fed. Reg. 12760 (Feb. 20 21 28, 2023)) shall have no force or effect, may not be re-22 issued in substantially the same form, and any new rules 23 that are substantially the same as such rules may not be 24 issued.

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