

1 **DIVISION C—BORDER ACT**

2 **SEC. 3001. SHORT TITLE; TABLE OF CONTENTS.**

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

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

DIVISION C—BORDER ACT

Sec. 3001. Short title; table of contents.

Sec. 3002. Definitions.

TITLE I—CAPACITY BUILDING

Subtitle A—Hiring, Training, and Systems Modernization

CHAPTER 1—HIRING AUTHORITIES

Sec. 3101. USCIS direct hire authority.

Sec. 3102. ICE direct hire authority.

Sec. 3103. Reemployment of civilian retirees to meet exceptional employment
needs.

Sec. 3104. Establishment of special pay rate for asylum officers.

CHAPTER 2—HIRING WAIVERS

Sec. 3111. Hiring flexibility.

Sec. 3112. Supplemental Commissioner authority and definitions.

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

Sec. 3121. Alternatives to detention improvements.

Sec. 3122. Training for U.S. Border Patrol.

CHAPTER 4—MODERNIZING NOTICES TO APPEAR

Sec. 3131. Electronic notices to appear.

Sec. 3132. Authority to prepare and issue notices to appear.

Subtitle B—Asylum Processing at the Border

Sec. 3141. Provisional noncustodial removal proceedings.

Sec. 3142. Protection merits removal proceedings.

Sec. 3143. Voluntary departure after noncustodial processing; withdrawal of
application for admission.

Sec. 3144. Voluntary repatriation.

Sec. 3145. Immigration Examinations Fee Account.

2

- Sec. 3146. Border reforms.
- Sec. 3147. Protection Appellate Board.

TITLE II—ASYLUM PROCESSING ENHANCEMENTS

- Sec. 3201. Combined screenings.
- Sec. 3202. Credible fear standard and asylum bars at screening interview.
- Sec. 3203. Internal relocation.
- Sec. 3204. Asylum officer clarification.

TITLE III—SECURING AMERICA

Subtitle A—Border Emergency Authority

- Sec. 3301. Border emergency authority.

Subtitle B—FEND Off Fentanyl Act

- Sec. 3311. Short titles.
- Sec. 3312. Sense of Congress.
- Sec. 3313. Definitions.

CHAPTER 1—SANCTIONS MATTERS

SUBCHAPTER A—SANCTIONS IN RESPONSE TO NATIONAL EMERGENCY
RELATING TO FENTANYL TRAFFICKING

- Sec. 3314. Finding; policy.
- Sec. 3315. Use of national emergency authorities; reporting.
- Sec. 3316. Imposition of sanctions with respect to fentanyl trafficking by transnational criminal organizations.
- Sec. 3317. Penalties; waivers; exceptions.
- Sec. 3318. Treatment of forfeited property of transnational criminal organizations.

SUBCHAPTER B—OTHER MATTERS

- Sec. 3319. Ten-year statute of limitations for violations of sanctions.
- Sec. 3320. Classified report and briefing on staffing of office of foreign assets control.
- Sec. 3321. Report on drug transportation routes and use of vessels with mislabeled cargo.
- Sec. 3322. Report on actions of People's Republic of China with respect to persons involved in fentanyl supply chain.

CHAPTER 2—ANTI-MONEY LAUNDERING MATTERS

- Sec. 3323. Designation of illicit fentanyl transactions of sanctioned persons as of primary money laundering concern.
- Sec. 3324. Treatment of transnational criminal organizations in suspicious transactions reports of the financial crimes enforcement network.
- Sec. 3325. Report on trade-based money laundering in trade with Mexico, the People's Republic of China, and Burma.

CHAPTER 3—EXCEPTION RELATING TO IMPORTATION OF GOODS

- Sec. 3326. Exception relating to importation of goods.

3

Subtitle C—Fulfilling Promises to Afghan Allies

- Sec. 3331. Definitions.
- Sec. 3332. Support for Afghan allies outside the United States.
- Sec. 3333. Conditional permanent resident status for eligible individuals.
- Sec. 3334. Refugee processes for certain at-risk Afghan allies.
- Sec. 3335. Improving efficiency and oversight of refugee and special immigrant processing.
- Sec. 3336. Support for certain vulnerable Afghans relating to employment by or on behalf of the United States.
- Sec. 3337. Support for allies seeking resettlement in the United States.
- Sec. 3338. Reporting.

TITLE IV—PROMOTING LEGAL IMMIGRATION

- Sec. 3401. Employment authorization for fiancés, fiancées, spouses, and children of United States citizens and specialty workers.
- Sec. 3402. Additional visas.
- Sec. 3403. Children of long-term visa holders.
- Sec. 3404. Military naturalization modernization.
- Sec. 3405. Temporary family visits.

TITLE V—SELF-SUFFICIENCY AND DUE PROCESS

Subtitle A—Work Authorizations

- Sec. 3501. Work authorization.
- Sec. 3502. Employment eligibility.

Subtitle B—Protecting Due Process

- Sec. 3511. Access to counsel.
- Sec. 3512. Counsel for certain unaccompanied alien children.
- Sec. 3513. Counsel for certain incompetent individuals.
- Sec. 3514. Conforming amendment.

TITLE VI—ACCOUNTABILITY AND METRICS

- Sec. 3601. Employment authorization compliance.
- Sec. 3602. Legal access in custodial settings.
- Sec. 3603. Credible fear and protection determinations.
- Sec. 3604. Publication of operational statistics by U.S. Customs and Border Protection.
- Sec. 3605. Utilization of parole authorities.
- Sec. 3606. Accountability in provisional removal proceedings.
- Sec. 3607. Accountability in voluntary repatriation, withdrawal, and departure.
- Sec. 3608. GAO analysis of immigration judge and asylum officer decision-making regarding asylum, withholding of removal, and protection under the Convention Against Torture.
- Sec. 3609. Report on counsel for unaccompanied alien children.
- Sec. 3610. Recalcitrant countries.

TITLE VII—OTHER MATTERS

- Sec. 3701. Severability.

1 **SEC. 3002. DEFINITIONS.**

2 In this division:

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

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

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

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

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

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

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

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

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

4 **CHAPTER 1—HIRING AUTHORITIES**

5 **SEC. 3101. USCIS DIRECT HIRE AUTHORITY.**

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

13 (1) public notice has been given;

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. 3102. ICE DIRECT HIRE AUTHORITY.**

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

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

6 (1) public notice has been given;

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

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

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

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

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

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

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

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

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

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

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

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

14 **SEC. 3103. REEMPLOYMENT OF CIVILIAN RETIREES TO**
15 **MEET EXCEPTIONAL EMPLOYMENT NEEDS.**

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

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

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

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

13 **SEC. 3104. ESTABLISHMENT OF SPECIAL PAY RATE FOR**
14 **ASYLUM OFFICERS.**

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

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

19 “(a) DEFINITIONS.—In this section—

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

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

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

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

10 “(b) SPECIAL BASE RATES OF PAY.—

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

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

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

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

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

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

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

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

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

13 **CHAPTER 2—HIRING WAIVERS**

14 **SEC. 3111. HIRING FLEXIBILITY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(c) TERMINATION OF WAIVER AUTHORITY.—The
17 authority to issue a waiver under subsection (b) shall ter-
18minate on the date that is 3 years after the date of the
19 enactment of the Border Act.”.

20 **SEC. 3112. SUPPLEMENTAL COMMISSIONER AUTHORITY**
21 **AND DEFINITIONS.**

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

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

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

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

14 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
15 TION.—The Commissioner of U.S. Customs and Border
16 Protection is authorized to administer a polygraph exam-
17 ination to an applicant or employee who is eligible for or
18 receives a waiver under subsection (b) of section 3 if infor-
19 mation is discovered prior to the completion of a back-
20 ground investigation that results in a determination that
21 a polygraph examination is necessary to make a final de-
22 termination regarding suitability for employment or con-
23 tinued employment, as the case may be.”.

24 (b) REPORT.—The Anti-Border Corruption Act of
25 2010 (Public Law 111–376; 124 Stat. 4104) is amended
26 by adding at the end the following new section:

1 **“SEC. 5. REPORTING REQUIREMENTS.**

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

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

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

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

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

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

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

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

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

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 employees for
5 suitability; and

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

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

15 **“SEC. 6. GAO REPORT.**

16 “(a) IN GENERAL.—Not later than five years after
17 the date of the enactment of this section, and every five
18 years thereafter, the Comptroller General of the United
19 States shall—

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

24 “(A) to determine the rates of disciplinary
25 actions taken against individuals hired using

1 such waiver authority, as compared to individ-
2 uals hired after passing the polygraph as re-
3 quired under subsection (a) of that section; and

4 “(B) to address any other issue relating to
5 discipline by U.S. Customs and Border Protec-
6 tion; and

7 “(2) submit to the Committee on Homeland Se-
8 curity and Governmental Affairs of the Senate and
9 the Committee on Homeland Security of the House
10 of Representatives a report that appropriately pro-
11 tects sensitive information and describes the results
12 of the review conducted under paragraph (1).

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

16 (d) DEFINITIONS.—The Anti-Border Corruption Act
17 of 2010 (Public Law 111–376; 124 Stat. 4104), as
18 amended by subsection (c) of this section, is further
19 amended by adding at the end the following new section:

20 **“SEC. 7. DEFINITIONS.**

21 “In this Act:

22 “(1) CRIMINAL OFFENSE.—The term ‘criminal
23 offense’ means—

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

1 “(B) any other crime for which an essen-
2 tial element involves fraud, deceit, or misrepre-
3 sentation to obtain an advantage or to dis-
4 advantage another.

5 “(2) FEDERAL LAW ENFORCEMENT OFFICER.—
6 The term ‘Federal law enforcement officer’ means a
7 ‘law enforcement officer’, as defined in section
8 8331(20) or 8401(17) of title 5, United States Code.

9 “(3) MILITARY OFFENSE.—The term ‘military
10 offense’ means—

11 “(A) an offense for which—

12 “(i) a member of the Armed Forces
13 may be discharged or separated from serv-
14 ice in the Armed Forces; or

15 “(ii) a punitive discharge is, or would
16 be, authorized for the same or a closely re-
17 lated offense under the Manual for Courts-
18 Martial, as pursuant to Army Regulation
19 635–200 chapter 14–12; and

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

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

4 **CHAPTER 3—ALTERNATIVES TO DETEN-**
5 **TION IMPROVEMENTS AND TRAINING**
6 **FOR U.S. BORDER PATROL**

7 **SEC. 3121. ALTERNATIVES TO DETENTION IMPROVEMENTS.**

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

12 (1) with respect to the alternatives to detention
13 programs, U.S. Immigration and Customs Enforce-
14 ment’s processes that release aliens under any type
15 of supervision, consistent and standard policies are
16 in place across all U.S. Immigration and Customs
17 Enforcement field offices;

18 (2) the U.S. Immigration and Customs En-
19 forcement’s alternatives to detention programs use
20 escalation and de-escalation techniques; and

21 (3) reports on the use of, and policies with re-
22 spect to, such escalation and de-escalation tech-
23 niques are provided to the public appropriately pro-
24 tecting sensitive information.

25 (b) ANNUAL POLICY REVIEW.—

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

7 (2) SUBMISSION OF POLICY REVIEWS.—Not
8 later than 14 days after the completion of each re-
9 view required by paragraph (1), the Director shall
10 submit to the appropriate committees of Congress a
11 report on the results of the review.

12 (c) INDEPENDENT VERIFICATION AND VALIDA-
13 TION.—Not less frequently than every 5 years, the Direc-
14 tor shall ensure that an independent verification and vali-
15 dation of U.S. Immigration and Customs Enforcement
16 policies with respect to the alternatives to detention pro-
17 grams is conducted.

18 **SEC. 3122. TRAINING FOR U.S. BORDER PATROL.**

19 (a) IN GENERAL.—The Commissioner of U.S. Cus-
20 toms and Border Protection shall require all U.S. Border
21 Patrol agents and other employees or contracted employ-
22 ees designated by the Commissioner to participate in an-
23 nual continuing training to maintain and update their un-
24 derstanding of—

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

3 (2) the fundamentals of law (including the
4 Fourth Amendment to the Constitution of the
5 United States), ethics, and professional conduct;

6 (3) applicable Federal law and regulations;

7 (4) applicable migration trends that the Com-
8 missioner determines are relevant;

9 (5) best practices for coordinating with commu-
10 nity stakeholders;

11 (6) de-escalation training; and

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

14 (b) TRAINING SUBJECTS.—Continuing training
15 under this section shall include training regarding—

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

19 (2) identifying, screening, and responding to
20 vulnerable populations, such as children, persons
21 with diminished mental capacity, victims of human
22 trafficking, pregnant mothers, victims of gender-
23 based violence, victims of torture or abuse, and the
24 acutely ill;

1 (3) trends in transnational criminal organiza-
2 tion activities that impact border security and mi-
3 gration;

4 (4) policies, strategies, and programs—

5 (A) to protect due process, the civil,
6 human, and privacy rights of individuals, and
7 the private property rights of land owners;

8 (B) to reduce the number of migrant and
9 agent deaths; and

10 (C) to improve the safety of agents on pa-
11 trol;

12 (5) personal resilience;

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

14 (7) current migration trends, including updated
15 cultural and societal issues of countries that are a
16 significant source of migrants who are—

17 (A) arriving to seek humanitarian protec-
18 tion; or

19 (B) encountered at a United States inter-
20 national boundary while attempting to enter
21 without inspection;

22 (8) the impact of border security operations on
23 natural resources and the environment, including
24 strategies to limit the impact of border security op-
25 erations on natural resources and the environment;

1 (9) relevant cultural, societal, racial, and reli-
2 gious training, including cross-cultural communica-
3 tion skills;

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

6 (11) risk management and safety training that
7 includes agency protocols for ensuring public safety,
8 personal safety, and the safety of persons in the cus-
9 tody of the Department of Homeland Security; and

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

13 (c) COURSE REQUIREMENTS.—Courses offered under
14 this section—

15 (1) shall be administered by U.S. Customs and
16 Border Protection; and

17 (2) shall be approved in advance by the Com-
18 missioner of U.S. Customs and Border Protection to
19 ensure that such courses satisfy the requirements for
20 training under this section.

21 (d) ASSESSMENT.—Not later than 2 years after the
22 date of the enactment of this Act, the Comptroller General
23 of the United States shall submit to the Committee on
24 Homeland Security and Governmental Affairs of the Sen-
25 ate and the Committee on Homeland Security of the

1 House of Representatives a report that assesses the train-
2 ing and education provided pursuant to this section, in-
3 cluding continuing education.

4 **CHAPTER 4—MODERNIZING NOTICES TO**
5 **APPEAR**

6 **SEC. 3131. ELECTRONIC NOTICES TO APPEAR.**

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

9 (1) in subsection (a)—

10 (A) in paragraph (1), in the matter pre-
11 ceding subparagraph (A), by inserting “or, if
12 elected by the alien in writing, by email or other
13 electronic means to the extent feasible, if the
14 alien, or the alien’s counsel of record, volun-
15 tarily elects such service or otherwise accepts
16 service electronically” after “mail”; and

17 (B) in paragraph (2)(A), in the matter
18 preceding clause (i), by inserting “or, if elected
19 by the alien in writing, by email or other elec-
20 tronic means to the extent feasible, if the alien,
21 or the alien’s counsel of record, voluntarily
22 elects such service or otherwise accepts service
23 electronically” after “mail”; and

24 (2) in subsection (c)—

1 (A) by inserting “the alien, or to the
2 alien’s counsel of record, at” after “delivery
3 to”; and

4 (B) by inserting “, or to the email address
5 or other electronic address at which the alien
6 elected to receive notice under paragraph (1) or
7 (2) of subsection (a)” before the period at the
8 end.

9 **SEC. 3132. AUTHORITY TO PREPARE AND ISSUE NOTICES**
10 **TO APPEAR.**

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

14 “(4) **AUTHORITY FOR CERTAIN PERSONNEL TO**
15 **SERVE NOTICES TO APPEAR.**—Any mission support
16 personnel within U.S. Customs and Border Protec-
17 tion or U.S. Immigration and Customs Enforcement
18 who reports directly to an immigration officer with
19 authority to issue a notice to appear, and who has
20 received the necessary training to issue such a no-
21 tice, shall be authorized to prepare a notice to ap-
22 pear under this section for review and issuance by
23 the immigration officer.”.

1 **Subtitle B—Asylum Processing at**
2 **the Border**

3 **SEC. 3141. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**
4 **CEEDINGS.**

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

8 **“SEC. 235B. PROVISIONAL NONCUSTODIAL REMOVAL PRO-**
9 **CEEDINGS.**

10 “(a) GENERAL RULES.—

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

16 “(A) indicates an intention to apply for a
17 protection determination; or

18 “(B) expresses a credible fear of persecu-
19 tion (as defined in section 235(b)(1)(B)(v)) or
20 torture.

21 “(2) RELEASE FROM CUSTODY.—Aliens re-
22 ferred for proceedings under this section shall be re-
23 leased from physical custody and processed in ac-
24 cordance with the procedures described in this sec-
25 tion.

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

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

14 “(5) EXCEPTIONS.—

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

20 “(B) APPLICABILITY LIMITATION.—

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

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

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

9 “(II) was encountered within 100
10 air miles of the international land bor-
11 ders of the United States.

12 “(6) TIMING.—The provisional noncustodial re-
13 moval proceedings described in this section shall
14 conclude, to the maximum extent practicable, not
15 later than 90 days after the date the alien is in-
16 spected and determined inadmissible.

17 “(b) PROCEDURES FOR PROVISIONAL NONCUSTO-
18 DIAL REMOVAL PROCEEDINGS.—

19 “(1) COMMENCEMENT.—

20 “(A) IN GENERAL.—Provisional noncusto-
21 dial removal proceedings shall commence under
22 this section with respect to an alien immediately
23 after the Secretary properly serves a notice of
24 removal proceedings on the alien.

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

5 “(2) SERVICE AND NOTICE OF INTERVIEW RE-
6 QUIREMENTS.—In provisional noncustodial removal
7 proceedings conducted under this section, the Sec-
8 retary shall—

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

12 “(B) ensure that such notice, to the max-
13 imum extent practicable, is in the alien’s native
14 language or in a language the alien under-
15 stands; and

16 “(C) include in such notice—

17 “(i) the nature of the proceedings
18 against the alien;

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

21 “(iii) the charges against the alien
22 and the statutory provisions the alien is al-
23 leged to have violated;

24 “(D) inform the alien of his or her obliga-
25 tion—

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

8 “(ii) to provide to the Secretary, in
9 writing, any change of the alien’s mailing
10 address or telephone number shortly after
11 any such change;

12 “(E) include in such notice—

13 “(i) the time and place at which the
14 proceeding under this section will be held,
15 which shall be communicated, to the extent
16 practicable, before or during the alien’s re-
17 lease from physical custody; or

18 “(ii) immediately after release, the
19 time and place of such proceeding, which
20 shall be provided not later than 10 days
21 before the scheduled protection determina-
22 tion interview and shall be considered
23 proper service of the commencement of
24 proceedings; and

25 “(F) inform the alien of—

1 “(i) the consequences to which the
2 alien would be subject pursuant to section
3 240(b)(5) if the alien fails to appear at
4 such proceeding, absent exceptional cir-
5 cumstances;

6 “(ii) the alien’s right to be rep-
7 resented, at no expense to the Federal
8 Government, by any counsel or accredited
9 representative selected by the alien who is
10 authorized to represent an alien in such a
11 proceeding; and

12 “(G) the information described in section
13 235(b)(1)(B)(iv)(II).

14 “(3) PROTECTION DETERMINATION.—

15 “(A) IN GENERAL.—To the maximum ex-
16 tent practicable, within 90 days after the date
17 on which an alien is referred for proceedings
18 under this section, an asylum officer shall con-
19 duct a protection determination of such alien in
20 person or through a technology appropriate for
21 protection determinations.

22 “(B) ACCESS TO COUNSEL.—In any pro-
23 ceeding under this section or section 240D be-
24 fore U.S. Citizenship and Immigration Services
25 and in any appeal of the result of such a pro-

1 ceeding, an alien shall have the privilege of
2 being represented, at no expense to the Federal
3 Government, by counsel authorized to represent
4 an alien in such a proceeding.

5 “(C) PROCEDURES AND EVIDENCE.—The
6 asylum officer may receive into evidence any
7 oral or written statement that is material and
8 relevant to any matter in the protection deter-
9 mination. The testimony of the alien shall be
10 under oath or affirmation administered by the
11 asylum officer.

12 “(D) INTERPRETERS.—Whenever nec-
13 essary, the asylum officer shall procure the as-
14 sistance of an interpreter, to the maximum ex-
15 tent practicable, in the alien’s native language
16 or in a language the alien understands, during
17 any protection determination.

18 “(E) LOCATION.—

19 “(i) IN GENERAL.—Any protection de-
20 termination authorized under this section
21 shall occur in—

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

1 “(II) a facility managed, leased,
2 or operated by U.S. Citizenship and
3 Immigration Services;

4 “(III) any other location des-
5 igned by the Director of U.S. Citi-
6 zenship and Immigration Services; or

7 “(IV) any other federally owned
8 or federally leased building that—

9 “(aa) the Director has au-
10 thorized or entered into a memo-
11 randum of agreement to be used
12 for such purpose; and

13 “(bb) meets the special rules
14 under clause (ii) and the min-
15 imum requirements under clause
16 (iii).

17 “(ii) SPECIAL RULES.—

18 “(I) LOCATION.—A protection
19 determination may not be conducted
20 in a facility that is managed, leased,
21 owned, or operated by U.S. Immigra-
22 tion and Customs Enforcement or
23 U.S. Customs and Border Protection.

24 “(II) REASONABLE TIME.—The
25 Secretary shall ensure that a protec-

1 tion determination is conducted dur-
2 ing a reasonable time of the day.

3 “(III) GEOGRAPHICAL LIMITA-
4 TION.—The Secretary shall ensure
5 that each protection determination for
6 an alien is scheduled at a facility that
7 is a reasonable distance from the cur-
8 rent residence of such alien.

9 “(IV) PROTECTION FOR CHIL-
10 DREN.—In the case of a family unit,
11 the Secretary shall ensure that the
12 best interests of the child or children
13 are considered when conducting a pro-
14 tection determination of the child’s
15 family unit.

16 “(iii) MINIMUM LOCATION REQUIRE-
17 MENT.—Each facility that the Director au-
18 thorizes to be used to conduct protection
19 determinations shall—

20 “(I) have adequate security
21 measures to protect Federal employ-
22 ees, aliens, and beneficiaries for bene-
23 fits; and

24 “(II) ensure the best interests of
25 the child or children are prioritized

1 an alien to reschedule a protection deter-
2 mination in the event of exceptional cir-
3 cumstances.

4 “(ii) TOLLING OF TIME LIMITA-
5 TION.—If an interview is rescheduled at
6 the request of an alien, the period between
7 the date on which the protection deter-
8 mination was originally scheduled and the
9 date of the rescheduled interview shall not
10 count toward the 90-day period referred to
11 in subsection (a)(6).

12 “(H) WITHDRAWAL OF APPLICATION, VOL-
13 UNTARY DEPARTURE, AND VOLUNTARY REPA-
14 TRIATION.—

15 “(i) VOLUNTARY DEPARTURE.—The
16 Secretary may permit an alien to volun-
17 tarily depart in accordance with section
18 240E.

19 “(ii) WITHDRAWAL OF APPLICA-
20 TION.—The Secretary may permit an alien,
21 at any time before the protection merits
22 interview, to withdraw his or her applica-
23 tion and depart immediately from the
24 United States in accordance with section
25 240F.

1 curity to disclose any information that is
2 otherwise protected from disclosure by law.

3 “(ii) PROTECTION OF CERTAIN INFOR-
4 MATION.—Before providing the record de-
5 scribed in subparagraph (F) to the alien or
6 to the alien’s counsel of record, the Direc-
7 tor shall protect any information that is
8 prohibited by law from being disclosed.

9 “(c) PROTECTION DETERMINATION.—

10 “(1) IDENTITY VERIFICATION.—The Secretary
11 may not conduct the protection determination with
12 respect to an alien until the identity of the alien has
13 been checked against all appropriate records and
14 databases maintained by the Attorney General, the
15 Secretary of State, or the Secretary.

16 “(2) IN GENERAL.—

17 “(A) ELIGIBILITY.—Upon the establishing
18 the identity of an alien pursuant to paragraph
19 (1), the asylum officer shall conduct a protec-
20 tion determination in a location selected in ac-
21 cordance with this section.

22 “(B) OUTCOME.—

23 “(i) POSITIVE PROTECTION DETER-
24 MINATION OUTCOME.—If the protection de-
25 termination conducted pursuant to sub-

1 paragraph (A) results in a positive protec-
2 tion determination outcome, the alien shall
3 be referred to protection merits removal
4 proceedings in accordance with the proce-
5 dures described in paragraph (4).

6 “(ii) NEGATIVE PROTECTION DETER-
7 MINATION OUTCOME.—If such protection
8 determination results in a negative protec-
9 tion determination outcome, the alien shall
10 be subject to the process described in sub-
11 section (d).

12 “(3) RECORD.—

13 “(A) USE OF RECORD.—In each protection
14 determination, or any review of such determina-
15 tion, the record of the alien’s protection deter-
16 mination required under subsection (b)(3)(F)
17 shall constitute the underlying application for
18 the alien’s application for asylum, withholding
19 of removal under section 241(b)(3), or protec-
20 tion under the Convention Against Torture for
21 purposes of the protection merits interview.

22 “(B) DATE OF FILING.—The date on
23 which the Secretary issues a notification of a
24 positive protection determination pursuant to
25 paragraph (2)(B)(i) shall be considered, for all

1 purposes, the date of filing and the date of re-
2 ceipt of the alien’s application for asylum, with-
3 holding of removal under section 241(b)(3), or
4 protection under the Convention Against Tor-
5 ture, as applicable.

6 “(4) REFERRAL FOR PROTECTION MERITS RE-
7 MOVAL PROCEEDINGS.—

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

10 “(i) the alien shall be issued employ-
11 ment authorization pursuant to section
12 235C; and

13 “(ii) subject to paragraph (5), the
14 asylum officer shall refer the alien for pro-
15 tection merits removal proceedings de-
16 scribed in section 240D.

17 “(B) NOTIFICATIONS.—As soon as prac-
18 ticable after a positive protection determination,
19 the Secretary shall—

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

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

24 “(iii) ensure that such notification
25 and information concerning the procedures

1 under section 240D, shall be made, at a
2 minimum, not later than 30 days before
3 the date on which the required protection
4 merits interview under section 240D oc-
5 curs.

6 “(5) AUTHORITY TO GRANT RELIEF OR PRO-
7 TECTION.—

8 “(A) IN GENERAL.—If an alien dem-
9 onstrates, by clear and convincing evidence,
10 that the alien is eligible for asylum, withholding
11 of removal under section 241(b)(3), or protec-
12 tion under the Convention Against Torture dur-
13 ing the protection determination, the asylum of-
14 ficer, subject to the procedures under subpara-
15 graph (B), may grant an application for such
16 relief or protection submitted by such alien
17 without referring the alien to protection merits
18 removal proceedings under section 240D.

19 “(B) SUPERVISORY REVIEW.—

20 “(i) IN GENERAL.—An application
21 granted by an asylum officer under sub-
22 paragraph (A) shall be reviewed by a su-
23 pervisory asylum officer to determine
24 whether such grant is warranted.

1 “(ii) LIMITATION.—A decision by an
2 asylum officer to grant an application
3 under subparagraph (A) shall not be final,
4 and the alien shall not be notified of such
5 decision, unless a supervisory asylum offi-
6 cer first determines, based on the review
7 conducted pursuant to clause (i), that such
8 a grant is warranted.

9 “(iii) EFFECT OF APPROVAL.—If the
10 supervisor determines that granting an
11 alien’s application for relief or protection is
12 warranted—

13 “(I) such application shall be ap-
14 proved; and

15 “(II) the alien shall receive writ-
16 ten notification of such decision as
17 soon as practicable.

18 “(iv) EFFECT OF NON-APPROVAL.—If
19 the supervisor determines that the grant is
20 not warranted, the alien shall be referred
21 for protection merits removal proceedings
22 under section 240D.

23 “(C) SPECIAL RULES.—Notwithstanding
24 any other provision of law—

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

5 “(ii) if an alien’s application for with-
6 holding of removal under section 241(b)(3)
7 or for withholding or deferral of removal
8 under the Convention Against Torture is
9 approved pursuant to subparagraph
10 (B)(iii), the asylum officer shall issue a
11 corresponding order of removal.

12 “(D) BIENNIAL REPORT.—The Director
13 shall submit a biennial report to the relevant
14 committees of Congress that includes, for the
15 relevant period—

16 “(i) the number of cases described in
17 subparagraph (A) that were referred to a
18 supervisor pursuant to subparagraph (B),
19 disaggregated by asylum office;

20 “(ii) the number of cases described in
21 clause (i) that were approved subsequent
22 to the referral to a supervisor pursuant to
23 subparagraph (B);

24 “(iii) the number of cases described in
25 clause (i) that were not approved subse-

1 quent to the referral to a supervisor pursu-
2 ant to subparagraph (B);

3 “ (iv) a summary of the benefits for
4 which any aliens described in subpara-
5 graph (A) were considered amenable and
6 whose cases were referred to a supervisor
7 pursuant to subparagraph (B),
8 disaggregated by case outcome referred to
9 in clauses (ii) and (iii);

10 “ (v) a description of any anomalous
11 case outcomes for aliens described in sub-
12 paragraph (A) whose cases were referred
13 to a supervisor pursuant subparagraph
14 (B); and

15 “ (vi) a description of any actions
16 taken to remedy the anomalous case out-
17 comes referred to in clause (v).

18 “(E) PROTECTION OF PERSONALLY IDEN-
19 TIFIABLE INFORMATION.—In preparing each re-
20 port pursuant to subparagraph (D), the Direc-
21 tor shall—

22 “ (i) protect any personally identifiable
23 information associated with aliens de-
24 scribed in subparagraph (A); and

1 “(ii) comply with all applicable pri-
2 vacy laws.

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

8 “(d) NEGATIVE PROTECTION DETERMINATION.—

9 “(1) IN GENERAL.—If an alien receives a nega-
10 tive protection determination, the asylum officer
11 shall—

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

14 “(B) subject to paragraph (2), order the
15 alien removed from the United States without
16 hearing or review.

17 “(2) OPPORTUNITY TO REQUEST RECONSIDER-
18 ATION OR APPEAL.—The Secretary shall notify any
19 alien described in paragraph (1) immediately after
20 receiving notification of a negative protection deter-
21 mination under this subsection that he or she—

22 “(A) may request reconsideration of such
23 determination in accordance with paragraph
24 (3); and

1 “(B) may request administrative review of
2 such protection determination decision in ac-
3 cordance with paragraph (4).

4 “(3) REQUEST FOR RECONSIDERATION.—

5 “(A) IN GENERAL.—Any alien with respect
6 to whom a negative protection determination
7 has been made may submit a request for recon-
8 sideration to U.S. Citizenship and Immigration
9 Services not later than 5 days after such deter-
10 mination.

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

16 “(4) ADMINISTRATIVE REVIEW.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the administrative review of
19 a protection determination with respect to an
20 alien under this subsection shall be based on
21 the record before the asylum officer at the time
22 at which such protection determination was
23 made.

24 “(B) EXCEPTION.—An alien referred to in
25 subparagraph (A), or the alien’s counsel of

1 record, may submit such additional evidence or
2 testimony in accordance with such policies and
3 procedures as the Secretary may prescribe.

4 “(C) REVIEW.—Each review described in
5 subparagraph (A) shall be conducted by the
6 Protection Appellate Board.

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

15 “(E) DETERMINATION.—

16 “(i) TIMING.—The Protection Appel-
17 late Board shall complete a review under
18 this paragraph, to the maximum extent
19 practicable, not later than 72 hours after
20 receiving a request from an alien pursuant
21 to subparagraph (D).

22 “(ii) EFFECT OF POSITIVE DETER-
23 MINATION.—If, after conducting a review
24 under this paragraph, the Protection Ap-
25 pellate Board determines that an alien has

1 a positive protection determination, the
2 alien shall be referred for protection merits
3 removal proceedings under section 240D.

4 “(iii) EFFECT OF NEGATIVE DETER-
5 MINATION.—If, after conducting a review
6 under this paragraph, the Protection Ap-
7 pellate Board determines that an alien has
8 a negative protection determination, the
9 alien shall be ordered removed from the
10 United States without additional review.

11 “(5) JURISDICTIONAL MATTERS.—In any action
12 brought against an alien under section 275(a) or
13 276, the court shall not have jurisdiction to hear any
14 claim attacking the validity of an order of removal
15 entered pursuant to subsection (c)(5)(C)(ii).

16 “(e) SERVICE OF PROTECTION DETERMINATION DE-
17 CISION.—

18 “(1) PROTECTION DETERMINATION DECI-
19 SION.—

20 “(A) IN GENERAL.—Upon reaching a deci-
21 sion regarding a protection determination, the
22 Secretary shall—

23 “(i) immediately notify the alien, and
24 the alien’s counsel of record, if applicable,

1 that a determination decision has been
2 made; and

3 “(ii) schedule the service of the pro-
4 tection determination decision, which shall
5 take place, to the maximum extent prac-
6 ticable, not later than 5 days after such
7 notification.

8 “(B) SPECIAL RULES.—

9 “(i) LOCATION.—Each service of a
10 protection determination decision sched-
11 uled pursuant to subparagraph (A)(ii) may
12 occur at—

13 “(I) a U.S. Immigration and
14 Customs Enforcement facility;

15 “(II) an Immigration Court; or

16 “(III) any other federally owned
17 or federally leased building that—

18 “(aa) the Secretary has au-
19 thorized or entered into a memo-
20 randum of agreement to be used
21 for such purpose; and

22 “(bb) meets the minimum
23 requirements under this subpara-
24 graph.

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

7 “(2) PROCEDURES FOR SERVICE OF PROTEC-
8 TION DETERMINATION DECISIONS.—

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

16 “(B) LANGUAGE ACCESS.—The Secretary
17 shall ensure that each written decision required
18 under subparagraph (A) is delivered to the alien
19 in—

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

22 “(ii) another language the alien un-
23 derstands.

24 “(C) ACCESS TO COUNSEL.—An alien who
25 has obtained the services of counsel shall be

1 represented by such counsel, at no expense to
2 the Federal Government, at the service of the
3 protection determination. Nothing in this sub-
4 paragraph may be construed to create a sub-
5 stantive due process right or to unreasonably
6 delay the scheduling of the service of the pro-
7 tection determination.

8 “(D) ASYLUM OFFICER.—A protection de-
9 termination decision may only be served by an
10 asylum officer.

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

18 “(3) NEGATIVE PROTECTION DETERMINA-
19 TION.—

20 “(A) ADVISEMENT OF RIGHTS AND OPPOR-
21 TUNITIES.—If an alien receives a negative pro-
22 tection determination decision, the asylum offi-
23 cer shall—

1 “(i) advise the alien if an alternative
2 option of return is available to the alien,
3 including—

4 “(I) voluntary departure;

5 “(II) withdrawal of the alien’s
6 application for admission; or

7 “(III) voluntary repatriation; and

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

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

19 “(5) FINAL ORDER OF REMOVAL.—If an alien
20 receives a negative protection determination decision,
21 an alien shall be removed in accordance with section
22 241 upon a final order of removal.

23 “(f) FAILURE TO CONDUCT PROTECTION DETER-
24 MINATION.—

1 than 30 days before the date on which
2 the alien's protection merits interview
3 is scheduled;

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

9 “(III) inform the alien that he or
10 she may submit evidence into the
11 record not later than 30 days before
12 the date on which the alien's protec-
13 tion merits interview is scheduled;

14 “(IV) describe—

15 “(aa) the penalties resulting
16 from the alien's failure to file the
17 application required under sub-
18 clause (I); and

19 “(bb) the terms and condi-
20 tions for redressing such failure
21 to file; and

22 “(V) describe the penalties re-
23 sulting from the alien's failure to ap-
24 pear for a scheduled protection merits
25 interview.

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

5 “(4) EFFECT OF FAILURE TO FILE.—

6 “(A) IN GENERAL.—Failure to timely file
7 an application for protection relief under this
8 subsection will result in an order of removal,
9 absent exceptional circumstances.

10 “(B) OPPORTUNITY FOR REDRESS.—

11 “(i) IN GENERAL.—The Secretary
12 shall promulgate regulations authorizing a
13 15-day opportunity for redress to file an
14 application for protection relief if there are
15 exceptional circumstances regarding the
16 alien’s failure to timely file an application
17 for protection relief.

18 “(ii) CONTENTS.—Each application
19 submitted pursuant to clause (i) shall—

20 “(I) describe the basis for such
21 request;

22 “(II) include supporting evidence;
23 and

24 “(III) identify the exceptional
25 circumstances that led to the alien’s

1 failure to file the application for pro-
2 tection relief in a timely manner.

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

6 “(i) shall determine whether such re-
7 quest rises to the level of exceptional cir-
8 cumstances; and

9 “(ii) may schedule a protection deter-
10 mination interview.

11 “(5) EMPLOYMENT AUTHORIZATION.—

12 “(A) IN GENERAL.—Employment author-
13 ization shall be provided to aliens described in
14 this subsection in accordance with section
15 235C.

16 “(B) REVOCATION.—The Secretary may
17 revoke the employment authorization provided
18 to any alien processed under this section or sec-
19 tion 240D if such alien—

20 “(i) has obtained authorization for
21 employment pursuant to the procedures
22 described in section 235C; and

23 “(ii) absent exceptional circumstances,
24 subsequently fails to appear for a protec-
25 tion determination under subsection (b)(3)

1 or a protection merits interview under
2 240D(c)(3).

3 “(g) FAILURE TO APPEAR.—

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

7 “(2) OPPORTUNITY TO REDRESS.—

8 “(A) IN GENERAL.—Not later than 15
9 days after the date on which an alien fails to
10 appear for a scheduled protection determination
11 or protection merits interview, the alien may
12 submit a written request for a rescheduled pro-
13 tection determination or protection merits inter-
14 view.

15 “(B) CONTENTS.—Each request submitted
16 pursuant to subparagraph (A) shall—

17 “(i) describe the basis for such re-
18 quest;

19 “(ii) include supporting evidence; and

20 “(iii) identify the exceptional cir-
21 cumstances that led to the alien’s failure to
22 appear.

23 “(C) DECISION.—In evaluating a request
24 submitted pursuant to subparagraph (A), the
25 Director, or designee shall determine whether

1 the evidence included in such request rises to
2 the level of exceptional circumstances. Such de-
3 cision shall not be reviewable.

4 “(h) RULEMAKING.—

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

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

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

24 “(i) SAVINGS PROVISIONS.—

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

9 “(2) DETENTION.—Nothing in this section may
10 be construed to affect the authority of the Secretary
11 to detain an alien released pursuant to this section
12 if otherwise authorized by law.

13 “(3) SETTLEMENT AGREEMENTS.—Nothing in
14 this section may be construed—

15 “(A) to expand or restrict any settlement
16 agreement in effect as of the date of the enact-
17 ment of this section; or

18 “(B) to abrogate any provision of the stip-
19 ulated settlement agreement in *Reno v. Flores*,
20 as filed in the United States District Court for
21 the Central District of California on January
22 17, 1997 (CV–85–4544–RJK), including all
23 subsequent court decisions, orders, agreements,
24 and stipulations.

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

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

18 “(6) REVIEW OF PROTECTION DETERMINA-
19 TIONS.—Except for reviews of constitutional claims,
20 no court shall have jurisdiction to review a protec-
21 tion determination issued by U.S. Citizenship and
22 Immigration Services under this section.

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

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

11 “(k) REPORTS ON ASYLUM OFFICER GRANT
12 RATES.—

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

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

22 “(B) a description of any anomalous inci-
23 dents identified by the Director, including any
24 action taken by the Director to address such an
25 incident.

1 “(2) SEMIANNUAL REPORT TO CONGRESS.—

2 “(A) IN GENERAL.—Not less frequently
3 than twice each year, the Director of U.S. Citi-
4 zenship and Immigration Services shall submit
5 a report to the relevant committees of Congress
6 that includes, for the preceding reporting pe-
7 riod, and aggregated for the applicable calendar
8 year—

9 “(i) the number of cases in which a
10 protection determination or protection mer-
11 its interview has been completed; and

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

15 “(I) the median percentage of
16 positive determinations and protection
17 merits interviews in the cases de-
18 scribed in clause (i);

19 “(II) the mean percentage of
20 negative determinations and protec-
21 tion merits interviews in such cases;
22 and

23 “(III) the number of cases de-
24 scribed in subsection (c)(5) in which
25 an alien was referred to a supervisor

1 after demonstrating, by clear and con-
2 vincing evidence, eligibility for asylum,
3 withholding of removal, or protection
4 under the Convention Against Tor-
5 ture, disaggregated by benefit type;

6 “(IV) the number of cases de-
7 scribed in clause (i) that were ap-
8 proved by a supervisor; and

9 “(V) the number of cases de-
10 scribed in clause (i) that were not ap-
11 proved by a supervisor.

12 “(B) PRESENTATION OF DATA.—The in-
13 formation described in subparagraph (A) shall
14 be provided in the format of aggregate totals by
15 office or duty station.

16 “(1) DEFINITIONS.—In this section:

17 “(1) APPLICATION FOR PROTECTION RELIEF.—
18 The term ‘application for protection relief’ means
19 any request, application or petition authorized by
20 the Secretary for asylum, withholding of removal, or
21 protection under the Convention Against Torture.

22 “(2) ASYLUM OFFICER.—The term ‘asylum offi-
23 cer’ has the meaning given such term in section
24 235(b)(1)(E).

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

7 “(4) DIRECTOR.—The term ‘Director’ means
8 the Director of U.S. Citizenship and Immigration
9 Services.

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

13 “(6) FINAL ORDER OF REMOVAL.—The term
14 ‘final order of removal’ means an order of removal
15 made by an asylum officer at the conclusion of a
16 protection determination, and any appeal of such
17 order, as applicable.

18 “(7) PROTECTION APPELLATE BOARD.—The
19 term ‘Protection Appellate Board’ means the Protec-
20 tion Appellate Board established under section 463
21 of the Homeland Security Act of 2002.

22 “(8) PROTECTION DETERMINATION DECI-
23 SION.—The term ‘protection determination decision’
24 means the service of a negative or positive protection
25 determination outcome.

1 “(9) RELEVANT COMMITTEES OF CONGRESS.—

2 The term ‘relevant committees of Congress’ means—

3 “(A) the Committee on Homeland Security
4 and Governmental Affairs of the Senate;

5 “(B) the Committee on the Judiciary of
6 the Senate;

7 “(C) the Committee on Appropriations of
8 the Senate;

9 “(D) the Committee on Homeland Security
10 of the House of Representatives;

11 “(E) the Committee on the Judiciary of
12 the House of Representatives;

13 “(F) the Committee on Appropriations of
14 the House of Representatives; and

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

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

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

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

1 **SEC. 3142. PROTECTION MERITS REMOVAL PROCEEDINGS.**

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

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

6 “(a) COMMENCEMENT OF PROCEEDINGS.—Removal
7 proceedings under this section shall commence imme-
8 diately after the Secretary properly serves notice on an
9 alien who was—

10 “(1) processed under section 235B and referred
11 under subsection (c)(4) of that section after having
12 been issued a notice of a positive protection deter-
13 mination under such subsection; or

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

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

19 “(c) PROCEDURES.—

20 “(1) SERVICE AND NOTICE REQUIREMENTS.—
21 Upon the commencement of proceedings under this
22 section, the Secretary shall provide notice of removal
23 proceedings to the alien, or if personal service is not
24 practicable, to the alien’s counsel of record. Such no-
25 tice shall be provided, to the maximum extent prac-
26 ticable, in the alien’s native language, or in a lan-

1 guage the alien understands, and shall specify or
2 provide—

3 “(A) the nature of the proceedings against
4 the alien;

5 “(B) the legal authority under which such
6 proceedings will be conducted;

7 “(C) the charges against the alien and the
8 statutory provisions alleged to have been vio-
9 lated by the alien;

10 “(D) that the alien shall—

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

18 “(ii) provide to the Secretary, in writ-
19 ing, any change of the alien’s mailing ad-
20 dress or telephone number after any such
21 change;

22 “(E)(i) the time and place at which the
23 proceeding under this section will be held,
24 which information shall be communicated, to

1 the extent practicable, before or during the
2 alien's release from physical custody; or

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

10 “(F) the consequences for the alien's fail-
11 ure to appear at such proceeding pursuant to
12 section 240(b)(5)(A), absent exceptional cir-
13 cumstances;

14 “(G) the alien's right to be represented, at
15 no expense to the Federal Government, by any
16 counsel, or an accredited representative, se-
17 lected by the alien who is authorized to practice
18 in such a proceeding; and

19 “(H) information described in section
20 235(b)(1)(B)(iv)(II).

21 “(2) ALTERNATIVES TO DETENTION.—An adult
22 alien, including a head of household, who has been
23 referred for proceedings under this section, shall be
24 supervised under the Alternatives to Detention pro-

1 gram of U.S. Immigration and Customs Enforce-
2 ment for the duration of such proceedings.

3 “(3) PROTECTION MERITS INTERVIEW.—

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

7 “(B) ACCESS TO COUNSEL.—Section
8 235B(b)(3)(B) shall apply to proceedings under
9 this section.

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

17 “(D) TRANSLATION OF DOCUMENTS.—Any
18 foreign language document offered by a party
19 in proceedings under this section shall be ac-
20 companied by an English language translation
21 and a certification signed by the translator,
22 which shall be printed legibly or typed. Such
23 certification shall include a statement that the
24 translator is competent to translate the docu-

1 ment, and that the translation is true and accu-
2 rate to the best of the translator’s abilities.

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

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

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

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

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

21 “(iii) the asylum officer’s analysis of
22 why, in light of the facts referred to in
23 clauses (i) and (ii), the alien has or has
24 not established eligibility for asylum under
25 section 208, withholding of removal under

1 section 241(b)(3), or protection under the
2 Convention Against Torture; and

3 “(iv) a copy of the asylum officer’s
4 interview notes.

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

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

15 “(J) WITHDRAWAL OF APPLICATION, VOL-
16 UNTARY DEPARTURE, AND VOLUNTARY REPA-
17 TRIATION.—

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

22 “(ii) WITHDRAWAL OF APPLICA-
23 TION.—The Secretary may permit an alien,
24 at any time before the protection merits
25 interview, to withdraw his or her applica-

1 tion and depart immediately from the
2 United States in accordance with section
3 240F.

4 “(iii) VOLUNTARY REPATRIATION.—
5 The Secretary may permit an alien to vol-
6 untarily repatriate in accordance with sec-
7 tion 240G.

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

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

17 “(d) PROTECTION MERITS DETERMINATION.—

18 “(1) IN GENERAL.—After conducting an alien’s
19 protection merits interview, the asylum officer shall
20 make a determination on the merits of the alien’s
21 application for asylum under section 208, with-
22 holding of removal under section 241(b)(3), or pro-
23 tection under the Convention Against Torture.

24 “(2) POSITIVE PROTECTION MERITS DETER-
25 MINATION.—In the case of an alien who the asylum

1 officer determines meets the criteria for a positive
2 protection merits determination, the asylum officer
3 shall approve the alien's application for asylum
4 under section 208, withholding of removal under sec-
5 tion 241(b)(3), or protection under the Convention
6 Against Torture.

7 “(3) NEGATIVE PROTECTION MERITS DETER-
8 MINATION.—

9 “(A) IN GENERAL.—In the case of an alien
10 who the asylum officer determines does not
11 meet the criteria for a positive protection merits
12 determination—

13 “(i) the asylum officer shall deny the
14 alien's application for asylum under section
15 208, withholding of removal under section
16 241(b)(3), or protection under the Conven-
17 tion Against Torture; and

18 “(ii) the Secretary shall—

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

21 “(II) subject to subparagraph
22 (B) and subsection (e), order the re-
23 moval of the alien from the United
24 States.

1 “(B) REQUEST FOR RECONSIDERATION.—

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

9 “(e) APPEALS.—

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

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

22 “(3) RESPONSIBILITIES OF THE DIRECTOR.—

23 “(A) IN GENERAL.—After the filing of a
24 petition for review by an alien, the Director
25 shall—

1 “(i) refer the alien’s petition for re-
2 view to the Protection Appellate Board;
3 and

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

10 “(I) to the Protection Appellate
11 Board; and

12 “(II) to the alien, or the alien’s
13 counsel of record.

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

20 “(4) STANDARD OF REVIEW.—

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

24 “(i) with respect to questions of fact,
25 determine whether the decision reached by

1 the asylum officer with initial jurisdiction
2 regarding the alien’s eligibility for relief or
3 protection was clear error; and

4 “(ii) with respect to questions of law,
5 discretion, and judgement, make a de novo
6 determination with respect to the alien’s
7 eligibility for relief or protection.

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

14 “(5) COMPLETION.—To the maximum extent
15 practicable, not later than 7 days after the date on
16 which an alien files a petition for review with the
17 Protection Appellate Board, the Protection Appellate
18 Board shall conclude the review.

19 “(6) OPPORTUNITY TO SUPPLEMENT.—The
20 Protection Appellate Board shall establish a process
21 by which an alien, or the alien’s counsel of record,
22 may supplement the record for purposes of a review
23 under this subsection not less than 30 days before
24 the Protection Appellate Board commences the re-
25 view.

1 “(7) RESULT OF REVIEW.—

2 “(A) VACATUR OF ORDER OF REMOVAL.—

3 In the case of a determination by the Protection
4 Appellate Board that the application of an alien
5 for asylum warrants approval, the Protection
6 Appellate Board shall vacate the order of re-
7 moval issued by the asylum officer and grant
8 such application.

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

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

19 “(ii) shall grant the application for
20 withholding of removal under section
21 241(b)(3) or protection under the Conven-
22 tion Against Torture, as applicable.

23 “(C) AFFIRMATION OF ORDER OF RE-
24 MOVAL.—In the case of a determination by the
25 Protection Appellate Board that the petition for

1 review of a protection merits interview does not
2 warrant approval, the Protection Appellate
3 Board shall affirm the denial of such applica-
4 tion and the order of removal shall become
5 final.

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

12 “(8) MOTION TO REOPEN OR MOTION TO RE-
13 CONSIDER.—

14 “(A) MOTION TO REOPEN.—A motion to
15 reopen a review conducted by the Protection
16 Appellate Board shall state new facts and shall
17 be supported by documentary evidence. The re-
18 submission of previously provided evidence or
19 reassertion of previously stated facts shall not
20 be sufficient to meet the requirements of a mo-
21 tion to reopen under this subparagraph. An
22 alien with a pending motion to reopen may be
23 removed if the alien’s order of removal is final,
24 pending a decision on a motion to reopen.

25 “(B) MOTION TO RECONSIDER.—

1 “(i) IN GENERAL.—A motion to re-
2 consider a decision of the Protection Ap-
3 pellate Board—

4 “(I) shall establish that—

5 “(aa) the Protection Appel-
6 late Board based its decision on
7 an incorrect application of law or
8 policy; and

9 “(bb) the decision was incor-
10 rect based on the evidence in the
11 record of proceedings at the time
12 of the decision; and

13 “(II) shall be filed not later than
14 30 days after the date on which the
15 decision was issued.

16 “(ii) LIMITATION.—The Protection
17 Appellate Board shall not consider new
18 facts or evidence submitted in support of a
19 motion to reconsider.

20 “(f) ORDER OF REMOVAL.—

21 “(1) IN GENERAL.—The Secretary—

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

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

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

13 “(g) LIMITATION ON JUDICIAL REVIEW.—

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

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

25 “(h) RULEMAKING.—

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

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

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

20 “(i) SAVINGS PROVISIONS.—

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

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

3 “(A) to expand or restrict any settlement
4 agreement in effect on the date of the enact-
5 ment of this section; or

6 “(B) to abrogate any provision of the stip-
7 ulated settlement agreement in *Reno v. Flores*,
8 as filed in the United States District Court for
9 the Central District of California on January
10 17, 1997 (CV-85-4544-RJK), including all
11 subsequent court decisions, orders, agreements,
12 and stipulations.

13 “(3) IMPACT ON OTHER REMOVAL PRO-
14 CEEDINGS.—The provisions of this section may not
15 be interpreted to apply to any other form of removal
16 proceedings.

17 “(4) CONVERSION TO REMOVAL PROCEEDINGS
18 UNDER SECTION 240.—The asylum officer or immi-
19 gration officer may refer or place an alien into re-
20 moval proceedings under section 240 by issuing a
21 notice to appear for the purpose of initiating such
22 proceedings if either such officer determines that—

23 “(A) such proceedings are required in
24 order to permit the alien to seek an immigra-

1 tion benefit for which the alien is legally enti-
2 tled to apply; and

3 “(B) such application requires such alien
4 to be placed in, or referred to proceedings
5 under section 240 that are not available to such
6 alien under this section.

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

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

22 “(l) DEFINITIONS.—In this section:

23 “(1) ASYLUM OFFICER.—The term ‘asylum offi-
24 cer’ has the meaning given such term in section
25 235(b)(1)(E).

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

7 “(3) DIRECTOR.—The term ‘Director’ means
8 the Director of U.S. Citizenship and Immigration
9 Services.

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

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

18 “(6) PROTECTION APPELLATE BOARD.—The
19 term ‘Protection Appellate Board’ means the Protec-
20 tion Appellate Board established under section 463
21 of the Homeland Security Act of 2002.

22 “(7) PROTECTION DETERMINATION DECI-
23 SION.—The term ‘protection determination decision’
24 means the service of a negative or positive protection
25 determination outcome.

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

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

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

7 **SEC. 3143. VOLUNTARY DEPARTURE AFTER NONCUSTO-**
8 **DIAL PROCESSING; WITHDRAWAL OF APPLI-**
9 **CATION FOR ADMISSION.**

10 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
11 gration and Nationality Act (8 U.S.C. 1221 et seq.), as
12 amended by section 3142(a), is further amended by insert-
13 ing after section 240D the following:

14 **“SEC. 240E. VOLUNTARY DEPARTURE AFTER NONCUSTO-**
15 **DIAL PROCESSING.**

16 “(a) CONDITIONS.—

17 “(1) IN GENERAL.—The Secretary of Homeland
18 Security (referred to in this section as the ‘Sec-
19 retary’) may permit an alien to voluntarily depart
20 the United States under this subsection, at the
21 alien’s own expense, instead of being subject to pro-
22 ceedings under section 235B or 240D or before the
23 completion of such proceedings, if such alien is not
24 deportable under paragraph (2)(A)(iii) or (4)(B) of
25 section 237(a).

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

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

10 “(b) AT CONCLUSION OF PROCEEDINGS.—

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

16 “(A) enters an order granting voluntary
17 departure instead of removal; and

18 “(B) determines that the alien—

19 “(i) has been physically present in the
20 United States for not less than 60 days
21 immediately preceding the date on which
22 proper notice was served in accordance
23 with section 235B(e)(2);

24 “(ii) is, and has been, a person of
25 good moral character for at least 5 years

1 immediately preceding the alien's applica-
2 tion for voluntary departure;

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

6 “(iv) has established, by clear and
7 convincing evidence, that he or she has the
8 means to depart the United States and in-
9 tends to do so.

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

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

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

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 an alien who was permitted to voluntarily depart the
25 United States under this section and fails to volun-

1 tarily depart within the period specified by the Sec-
2 retary—

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

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

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

14 “(3) NOTICE.—The order permitting an alien
15 to voluntarily depart shall describe the penalties
16 under this subsection.

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

21 “(f) JUDICIAL REVIEW.—No court has jurisdiction
22 over an appeal from the denial of a request for an order
23 of voluntary departure under subsection (b). No court may
24 order a stay of an alien’s removal pending consideration
25 of any claim with respect to voluntary departure.

1 period, to receive any further relief under this section and
2 section 240A.

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

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

11 (b) CLERICAL AMENDMENT.—The table of contents
12 of the Immigration and Nationality Act (8 U.S.C. 1101
13 et seq.), as amended by section 3142(b), is further amend-
14 ed by inserting after the item relating to section 240D
15 the following:

“Sec. 240E. Voluntary departure after noncustodial processing.
“Sec. 240F. Withdrawal of application for admission.”.

16 **SEC. 3144. VOLUNTARY REPATRIATION.**

17 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
18 gration and Nationality Act (8 U.S.C. 1221 et seq.), as
19 amended by section 3143(a), is further amended by insert-
20 ing after section 240F, the following:

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

22 “(a) ESTABLISHMENT.—The Secretary of Homeland
23 Security (referred to in this section as the ‘Secretary’)

1 shall establish a voluntary repatriation program in accord-
2 ance with the terms and conditions of this section.

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

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

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

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

20 “(2) determines that the alien—

21 “(A) has been physically present in the
22 United States immediately preceding the date
23 on which the alien elects voluntary repatriation;

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

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

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

8 “(E) has not previously elected voluntary
9 repatriation.

10 “(e) MINIMUM REQUIREMENTS.—

11 “(1) NOTICE.—The notices required to be pro-
12 vided to an alien under sections 235B(b)(2) and
13 240D(c)(1) shall include information on the vol-
14 untary repatriation program.

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

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

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

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

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

5 “(B) may only elect voluntary repatri-
6 ation—

7 “(i) knowingly and voluntarily; and

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

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

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

20 “(h) FAMILY UNITY.—In the case of an alien with
21 a minor child in the United States who has been permitted
22 to voluntarily repatriate pursuant to this section, the Sec-
23 retary shall ensure that such alien is repatriated with the
24 minor child, if the alien elects.

25 “(i) IMMIGRATION CONSEQUENCES.—

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

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

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

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

18 “(i) this section;

19 “(ii) section 240A; and

20 “(iii) section 240E; and

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

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

1 “(j) CLERICAL MATTERS.—

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

5 “(2) SAVINGS CLAUSE.—Nothing in this section
6 may be construed to supersede the requirements of
7 section 241(b)(3).

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

14 “(4) APPROPRIATIONS.—There are authorized
15 to be appropriated to the Secretary such sums as
16 necessary to carry out this section.

17 “(k) VOLUNTARY REPATRIATION DEFINED.—The
18 term ‘voluntary repatriation’ means the free and voluntary
19 return of an alien to the alien’s country of nationality (or
20 in the case of an alien having no nationality, the country
21 of the alien’s last habitual residence) in a safe and dig-
22 nified manner, consistent with the obligations of the
23 United States under the Convention Relating to the Sta-
24 tus of Refugees, done at Geneva July 28, 1952 (as made
25 applicable by the 1967 Protocol Relating to the Status of

1 Refugees, done at New York January 31, 1967 (19 UST
2 6223)).”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 of the Immigration and Nationality Act (8 U.S.C. 1101
5 et seq.), as amended by section 3143(b), is further amend-
6 ed by inserting after the item relating to section 240F the
7 following:

“Sec. 240G. Voluntary repatriation.”.

8 **SEC. 3145. IMMIGRATION EXAMINATIONS FEE ACCOUNT.**

9 Section 286 of the Immigration and Nationality Act
10 (8 U.S.C. 1356) is amended—

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

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

22 **SEC. 3146. BORDER REFORMS.**

23 (a) SPECIAL RULES FOR CONTIGUOUS CONTINENTAL
24 LAND BORDERS.—

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

4 **“SEC. 244A. SPECIAL RULES FOR CONTIGUOUS CONTI-**
5 **NENTAL LAND BORDERS.**

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

14 “(1) an exigent medical circumstance involving
15 the alien that requires the alien’s physical presence
16 in the United States;

17 “(2) a significant law enforcement or intel-
18 ligence purpose warranting the alien’s presence in
19 the United States;

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

23 “(4) a Tribal religious ceremony, cultural ex-
24 change, celebration, subsistence use, or other cul-
25 turally important purpose warranting the alien’s

1 presence in the United States on Tribal land located
2 at or near an international land border;

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

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

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

14 “(1) to preclude the execution of section
15 235(a)(4) or 241(a)(5);

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

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

1 “(c) TRANSITION RULES.—

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

11 “(2) PRE-CERTIFICATION REFERRALS AND
12 PLACEMENTS.—Before the Comptroller General of
13 the United States has certified that sections 235B
14 and 240D are fully operational pursuant to section
15 3146(d) of the Border Act, the Secretary shall refer
16 or place aliens described in subsection (a) in pro-
17 ceedings under section 240 based upon operational
18 considerations regarding the capacity of the Sec-
19 retary to process aliens under section 235 or section
20 235B, as applicable.

21 “(3) POST-CERTIFICATION REFERRALS AND
22 PLACEMENTS.—After the Comptroller General
23 makes the certification referred to in paragraph (2),
24 the Secretary may only refer aliens described in sub-
25 section (a) to, or place such aliens in, proceedings

1 under section 235(b) or 235B, as applicable, unless
2 such alien is subject to removal proceedings under
3 subsection (b)(3).”.

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

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

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

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

13 (A) in the matter preceding subparagraph

14 (A), by striking “on”;

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

17 (C) by amending subparagraph (B) to read
18 as follows:

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

21 “(ii) in the case of an alien encountered at
22 the border—

23 “(I) pursuant to the procedures under
24 235B; or

1 “(II) on the alien’s own recognizance
2 with placement into removal proceedings
3 under 240; and”.

4 (2) EFFECTIVE DATE.—The amendments made
5 by paragraph (1) shall take effect immediately after
6 the Comptroller General of the United States cer-
7 tifies, in accordance with subsection (d), that sec-
8 tions 235B and 240D of the Immigration and Na-
9 tionality Act, as added by sections 3141 and 3142,
10 are fully operational.

11 (c) REPORTING REQUIREMENT.—

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

15 “(f) SEMIANNUAL REPORT.—

16 “(1) IN GENERAL.—Not later than 180 days
17 after the date on which the Comptroller General
18 makes the certification described in section 3146(d)
19 of the Border Act, and every 180 days thereafter,
20 the Secretary of Homeland Security shall publish, on
21 a publicly accessible internet website in a
22 downloadable and searchable format, a report that
23 describes each use of the authority of the Secretary
24 under subsection (a)(2)(B)(ii)(II).

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

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

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

8 “(i) the rationale;

9 “(ii) the Border Patrol sector in
10 which the release occurred; and

11 “(iii) the number of days between the
12 scheduled date of the protection determina-
13 tion and the date of release from physical
14 custody.

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

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

19 “(B) shall not disclose any information
20 contained in, or pertaining to, a protection de-
21 termination.”.

22 “(2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall take effect immediately after
24 the Comptroller General of the United States cer-
25 tifies, in accordance with subsection (d), that sec-

1 tions 235B and 240D of the Immigration and Na-
2 tionality Act, as added by sections 3141 and 3142,
3 are fully operational.

4 (d) CERTIFICATION PROCESS.—

5 (1) DEFINITIONS.—In this subsection:

6 (A) FULLY OPERATIONAL.—The term
7 “fully operational” means the Secretary has the
8 necessary resources, capabilities, and personnel
9 to process all arriving aliens referred to in sec-
10 tions 235B and 240D of the Immigration and
11 Nationality Act, as added by sections 3141 and
12 3142, within the timeframes required by such
13 sections.

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

16 (i) the President;

17 (ii) the Secretary;

18 (iii) the Attorney General;

19 (iv) the Director of the Office of Man-
20 agement and Budget;

21 (v) the Committee on Homeland Secu-
22 rity and Governmental Affairs of the Sen-
23 ate;

24 (vi) the Committee on the Judiciary of
25 the Senate;

1 (vii) the Committee on Appropriations
2 of the Senate;

3 (viii) the Committee on Homeland Se-
4 curity of the House of Representatives;

5 (ix) the Committee on the Judiciary
6 of the House of Representatives; and

7 (x) the Committee on Appropriations
8 of the House of Representatives.

9 (2) REVIEW.—

10 (A) IN GENERAL.—Not later than 180
11 days after the date of the enactment of this
12 Act, the Comptroller General of the United
13 States shall review the implementation of sec-
14 tions 235B and 240D of the Immigration and
15 Nationality Act, as added by sections 3141 and
16 3142, to determine whether such sections are
17 fully operational.

18 (B) REVIEW ELEMENTS.—In completing
19 the review required under subparagraph (A),
20 the Comptroller General shall assess, in com-
21 parison to the available resources, capabilities,
22 and personnel on the date of the enactment of
23 this Act, whether there are sufficient—

24 (i) properly trained personnel, includ-
25 ing support personnel;

- 1 (ii) real property assets and other re-
2 quired capabilities;
- 3 (iii) information technology infrastruc-
4 ture;
- 5 (iv) field manuals and guidance, regu-
6 lations, and policies;
- 7 (v) other investments that the Comp-
8 troller General considers necessary; and
- 9 (vi) asylum officers to effectively proc-
10 ess all aliens who are considered amenable
11 for processing under section 235(b), sec-
12 tion 235B, section 240, and section 240D
13 of the Immigration and Nationality Act.

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

21 (4) NONCERTIFICATION AND SUBSEQUENT RE-
22 VIEWS.—If the Comptroller General determines,
23 after completing the review required under para-
24 graph (2), that such sections 235B and 240D are

1 not fully operational, the Comptroller General
2 shall—

3 (A) notify the required parties of such de-
4 termination, including the reasons for such de-
5 termination;

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

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

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

19 (6) EFFECT OF REJECTION.—

20 (A) NOTIFICATION.—If the Secretary re-
21 jects a certification of the of the Comptroller
22 General pursuant to paragraph (A), the Sec-
23 retary shall immediately—

24 (i) notify the President, the Comp-
25 troller General, and the congressional com-

1 mittees listed in paragraph (1) of such re-
2 jection; and

3 (ii) provide such entities with a ra-
4 tionale for such rejection.

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

11 **SEC. 3147. PROTECTION APPELLATE BOARD.**

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

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

16 “(a) ESTABLISHMENT.—The Secretary shall estab-
17 lish within the U.S. Citizenship and Immigration Services
18 an appellate authority to conduct administrative appellate
19 reviews of protection merits determinations made under
20 section 240D of the Immigration and Nationality Act in
21 which the alien is denied relief or protection, to be known
22 as the ‘Protection Appellate Board’.

23 “(b) COMPOSITION.—Each panel of the Protection
24 Appellate Board shall be composed of 3 U.S. Citizenship
25 and Immigration Services asylum officers (as defined in

1 section 235(b)(1)(E) of the Immigration and Nationality
2 Act (8 U.S.C. 1225(b)(1)(E))), assigned to the panel at
3 random, who—

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

5 “(2) are from diverse geographic regions.

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

11 “(1) the record of the alien’s protection determination (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))), as applicable;

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

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

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

15 “(5) a sworn statement from the alien identifying new evidence or alleged error and any accom-

1 panying information the alien or the alien's legal
2 representative considers important; and

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

5 “(d) DECISIONS.—Any final determination made by
6 a panel of the Protection Appellate Board shall be by ma-
7 jority decision, independently submitted by each member
8 of the panel.

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

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

17 “(g) REPORTS.—

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

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

1 “(i) the number of petitions for review
2 submitted by aliens under section 240D(e)
3 of the Immigration and Nationality Act;

4 “(ii) the number of appeals considered
5 by the Protection Appellate Board under
6 such section that resulted in a grant of re-
7 lief or protection;

8 “(iii) the number of appeals consid-
9 ered by the Protection Appellate Board
10 under such section that resulted in a denial
11 of relief or protection;

12 “(iv) the geographic regions in which
13 the members of the Protection Appellate
14 Board held their primary duty station;

15 “(v) the tenure of service of the mem-
16 bers of the Protection Appellate Board;

17 “(vi) a description of any anomalous
18 case outcome identified by the Secretary
19 and the resolution of any such case out-
20 come;

21 “(vii) the number of unanimous deci-
22 sions by the Protection Appellate Board;

23 “(viii) an identification of the number
24 of cases the Protection Appellate Board
25 was unable to complete in the timelines

1 specified under section 240D(e) of the Im-
2 migration and Nationality Act; and

3 “(ix) a description of any steps taken
4 to remediate any backlog identified under
5 clause (viii), as applicable; and

6 “(B) in submitting each such report, shall
7 protect all personally identifiable information of
8 Federal employees and aliens who are subject to
9 the reporting under this subsection.

10 “(2) APPROPRIATE COMMITTEES OF CONGRESS
11 DEFINED.—In this subsection, the term ‘appropriate
12 committees of Congress’ means—

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

15 “(B) the Committee on the Judiciary of
16 the Senate;

17 “(C) the Committee on Homeland Security
18 and Governmental Affairs of the Senate;

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

21 “(E) the Committee on the Judiciary of
22 the House of Representatives; and

23 “(F) the Committee on Homeland Security
24 of the House of Representatives.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 of the Homeland Security Act of 2002 (6 U.S.C. 101 et
3 seq.) is amended by inserting after the item relating to
4 section 462 the following:

“Sec. 463. Protection Appellate Board.”.

5 **TITLE II—ASYLUM PROCESSING**
6 **ENHANCEMENTS**

7 **SEC. 3201. COMBINED SCREENINGS.**

8 Section 101(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1101(a)) is amended by adding at the end
10 the following:

11 “(53) The term ‘protection determination’ means—

12 “(A) a screening conducted pursuant to section
13 235(b)(1)(B)(v); or

14 “(B) a screening to determine whether an alien
15 is eligible for—

16 “(i) withholding of removal under section
17 241(b)(3); or

18 “(ii) protection under the Convention
19 against Torture and Other Cruel, Inhuman or
20 Degrading Treatment or Punishment, done at
21 New York December 10, 1984, which includes
22 the regulations implementing any law enacted
23 pursuant to Article 3 of such convention.

24 “(54) The term ‘protection merits interview’ means
25 an interview to determine whether an alien—

1 “(A) meets the definition of refugee under
2 paragraph (42), in accordance with the terms and
3 conditions under section 208;

4 “(B) is eligible for withholding of removal
5 under section 241(b)(3); or

6 “(C) is eligible for protection under the Conven-
7 tion against Torture and Other Cruel, Inhuman or
8 Degrading Treatment or Punishment, done at New
9 York December 10, 1984, which includes the regula-
10 tions implementing any law enacted pursuant to Ar-
11 ticle 3 of such convention.”.

12 **SEC. 3202. CREDIBLE FEAR STANDARD AND ASYLUM BARS**

13 **AT SCREENING INTERVIEW.**

14 Section 235(b)(1)(B) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1225(b)(1)(B)) is amended—

16 (1) in clause (v), by striking “significant possi-
17 bility” and inserting “reasonable possibility”; and

18 (2) by adding at the end, the following:

19 “(vi) ASYLUM EXCEPTIONS.—An asy-
20 lum officer, during the credible fear screen-
21 ing of an alien—

22 “(I) shall determine whether any
23 of the asylum exceptions under section
24 208(b)(2) disqualify the alien from re-
25 ceiving asylum; and

1 (b) INAPPLICABILITY.—Section 244(c)(2)(B)(ii) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1254a(c)(2)(B)(ii)) is amended by inserting “clauses (i)
4 through (vi) of” after “described in”.

5 **SEC. 3204. ASYLUM OFFICER CLARIFICATION.**

6 Section 235(b)(1)(E) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

8 (1) in clause (i), by striking “comparable to”
9 and all that follows and inserting “, including non-
10 adversarial techniques;”;

11 (2) in clause (ii), by striking the period at the
12 end and inserting “; and”; and

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

14 “(iii)(I) is an employee of U.S. Citi-
15 zenship and Immigration Services; and

16 “(II) is not a law enforcement offi-
17 cer.”.

18 **TITLE III—SECURING AMERICA**

19 **Subtitle A—Border Emergency**

20 **Authority**

21 **SEC. 3301. BORDER EMERGENCY AUTHORITY.**

22 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
23 gration and Nationality Act (8 U.S.C. 1221 et seq.), as
24 amended by section 3146(a), is further amended by add-
25 ing at the end the following:

1 **“SEC. 244B. BORDER EMERGENCY AUTHORITY.**

2 “(a) USE OF AUTHORITY.—

3 “(1) IN GENERAL.—In order to respond to ex-
4 traordinary migration circumstances, there shall be
5 available to the Secretary, notwithstanding any other
6 provision of law, a border emergency authority.

7 “(2) EXCEPTIONS.—The border emergency au-
8 thority shall not be activated with respect to any of
9 the following:

10 “(A) A citizen or national of the United
11 States.

12 “(B) An alien who is lawfully admitted for
13 permanent residence.

14 “(C) An unaccompanied alien child.

15 “(D) An alien who an immigration officer
16 determines, with the approval of a supervisory
17 immigration officer, should be excepted from
18 the border emergency authority based on the to-
19 tality of the circumstances, including consider-
20 ation of significant law enforcement, officer and
21 public safety, humanitarian, and public health
22 interests, or an alien who an immigration offi-
23 cer determines, in consultation with U.S. Immi-
24 gration and Customs Enforcement, should be
25 excepted from the border emergency authority
26 due to operational considerations.

1 “(E) An alien who is determined to be a
2 victim of a severe form of trafficking in persons
3 (as defined in section 103 of the Trafficking
4 Victims Protection Act of 2000 (22 U.S.C.
5 7102)).

6 “(F) An alien who has a valid visa or other
7 lawful permission to enter the United States,
8 including—

9 “(i) a member of the Armed Forces of
10 the United States and associated per-
11 sonnel, United States Government employ-
12 ees or contractors on orders abroad, or
13 United States Government employees or
14 contractors, and an accompanying family
15 member who is on orders or is a member
16 of the alien’s household, subject to re-
17 quired assurances;

18 “(ii) an alien who holds a valid travel
19 document upon arrival at a port of entry;

20 “(iii) an alien from a visa waiver pro-
21 gram country under section 217 who is not
22 otherwise subject to travel restrictions and
23 who arrives at a port of entry; or

24 “(iv) an alien who presents at a port
25 of entry pursuant to a process approved by

1 the Secretary to allow for safe and orderly
2 entry into the United States.

3 “(3) APPLICABILITY.—The border emergency
4 authority shall only be activated as to aliens who are
5 not subject to an exception under paragraph (2),
6 and who are, after the authority is activated, within
7 100 miles of the United States southwest land bor-
8 der and within the 14-day period after entry.

9 “(b) BORDER EMERGENCY AUTHORITY DE-
10 SCRIBED.—

11 “(1) IN GENERAL.—Whenever the border emer-
12 gency authority is activated, the Secretary shall have
13 the authority, in the Secretary’s sole and
14 unreviewable discretion, to summarily remove from
15 and prohibit, in whole or in part, entry into the
16 United States of any alien identified in subsection
17 (a)(3) who is subject to such authority in accordance
18 with this subsection.

19 “(2) TERMS AND CONDITIONS.—

20 “(A) SUMMARY REMOVAL.—Notwith-
21 standing any other provision of this Act, subject
22 to subparagraph (B), the Secretary shall issue
23 a summary removal order and summarily re-
24 move an alien to the country of which the alien
25 is a subject, national, or citizen (or, in the case

1 of an alien having no nationality, the country of
2 the alien's last habitual residence), or in accord-
3 ance with the processes established under sec-
4 tion 241, unless the summary removal of the
5 alien to such country would be prejudicial to
6 the interests of the United States.

7 “(B) WITHHOLDING AND CONVENTION
8 AGAINST TORTURE INTERVIEWS.—

9 “(i) IN GENERAL.—In the case of an
10 alien subject to the border emergency au-
11 thority who manifests a fear of persecution
12 or torture with respect to a proposed coun-
13 try of summary removal, an asylum officer
14 (as defined in section 235(b)(1)(E)) shall
15 conduct an interview, during which the
16 asylum officer shall determine that, if such
17 alien demonstrates during the interview
18 that the alien has a reasonable possibility
19 of persecution or torture, such alien shall
20 be referred to or placed in proceedings
21 under section 240 or 240D, as appro-
22 priate.

23 “(ii) SOLE MECHANISM TO REQUEST
24 PROTECTION.—An interview under this
25 subparagraph conducted by an asylum offi-

1 cer shall be the sole mechanism by which
2 an alien described in clause (i) may make
3 a claim for protection under—

4 “(I) section 241(b)(3); and

5 “(II) the Convention Against
6 Torture.

7 “(iii) ALIEN REFERRED FOR ADDI-
8 TIONAL PROCEEDINGS.—In the case of an
9 alien interviewed under clause (i) who dem-
10 onstrates that the alien is eligible to apply
11 for protection under section 241(b)(3) or
12 the Convention Against Torture, the
13 alien—

14 “(I) shall not be summarily re-
15 moved; and

16 “(II) shall instead be processed
17 under section 240 or 240D, as appro-
18 priate.

19 “(iv) ADDITIONAL REVIEW.—

20 “(I) OPPORTUNITY FOR SEC-
21 ONDARY REVIEW.—A supervisory asy-
22 lum officer shall review any case in
23 which the asylum officer who inter-
24 viewed the alien under the procedures
25 in clause (iii) finds that the alien is

1 not eligible for protection under sec-
2 tion 241(b)(3) or the Convention
3 Against Torture.

4 “(II) VACATUR.—If, in con-
5 ducting such a secondary review, the
6 supervisory asylum officer determines
7 that the alien demonstrates eligibility
8 for such protection—

9 “(aa) the supervisory asylum
10 officer shall vacate the previous
11 negative determination; and

12 “(bb) the alien shall instead
13 be processed under section 240
14 or 240D.

15 “(III) SUMMARY REMOVAL.—If
16 an alien does not seek such a sec-
17 ondary review, or if the supervisory
18 asylum officer finds that such alien is
19 not eligible for such protection, the
20 supervisory asylum officer shall order
21 the alien summarily removed without
22 further review.

23 “(3) ACTIVATIONS OF AUTHORITY.—

24 “(A) DISCRETIONARY ACTIVATION.—The
25 Secretary may activate the border emergency

1 authority if, during a period of 7 consecutive
2 calendar days, there is an average of 4,000 or
3 more aliens who are encountered each day.

4 “(B) MANDATORY ACTIVATION.—The Sec-
5 retary shall activate the border emergency au-
6 thority if—

7 “(i) during a period of 7 consecutive
8 calendar days, there is an average of 5,000
9 or more aliens who are encountered each
10 day; or

11 “(ii) on any 1 calendar day, a com-
12 bined total of 8,500 or more aliens are en-
13 countered.

14 “(C) CALCULATION OF ACTIVATION.—

15 “(i) IN GENERAL.—For purposes of
16 subparagraphs (A) and (B), the average
17 for the applicable 7-day period shall be cal-
18 culated using—

19 “(I) the sum of—

20 “(aa) the number of encoun-
21 ters that occur between the
22 southwest land border ports of
23 entry of the United States;

24 “(bb) the number of encoun-
25 ters that occur between the ports

1 of entry along the southern
2 coastal borders; and

3 “(cc) the number of inad-
4 missible aliens encountered at a
5 southwest land border port of
6 entry as described in subsection
7 (a)(2)(F)(iv); divided by

8 “(II) 7.

9 “(ii) LIMITATION.—Aliens described
10 in subsection (a)(2)(C) from noncontiguous
11 countries shall not be included in calcu-
12 lating the sum of aliens encountered.

13 “(4) LIMITATIONS.—

14 “(A) IN GENERAL.—For purposes of para-
15 graph (3), the Secretary shall not activate the
16 border emergency authority—

17 “(i) during the first calendar year
18 after the effective date, for more than 270
19 calendar days;

20 “(ii) during the second calendar year
21 after the effective date, for more than 225
22 days; and

23 “(iii) during the third calendar year,
24 for more than 180 calendar days.

1 “(B) IMPLEMENTATION.—When the au-
2 thority is activated, the Secretary shall imple-
3 ment the authority within 24 hours of such ac-
4 tivation.

5 “(5) SUSPENSIONS OF AUTHORITY.—The Sec-
6 retary shall suspend activation of the border emer-
7 gency authority, and the procedures under sub-
8 sections (a), (b), (c), and (d), not later than 14 cal-
9 endar days after the date on which the following oc-
10 curs, as applicable:

11 “(A) In the case of an activation under
12 subparagraph (A) of paragraph (3), there is
13 during a period of 7 consecutive calendar days
14 an average of less than 75 percent of the en-
15 counter level used for activation.

16 “(B) In the case of an activation under
17 clause (i) or (ii) of paragraph (3)(B), there is
18 during a period of 7 consecutive calendar days
19 an average of less than 75 percent of the en-
20 counter level described in such clause (i).

21 “(6) WAIVERS OF ACTIVATION OF AUTHOR-
22 ITY.—

23 “(A) FIRST CALENDAR YEAR.—Notwith-
24 standing paragraph (3), beginning the first cal-
25 endar year after the effective date, the Sec-

1 retary shall only have the authority to activate
2 the border emergency authority for 270 cal-
3 endar days during the calendar year, provided
4 that—

5 “(i) for the first 90 calendar days in
6 which any of the requirements of para-
7 graph (3) have been satisfied, the Sec-
8 retary shall be required to activate such
9 authority;

10 “(ii) for the remaining 180 days that
11 the authority is available in the calendar
12 year, the Secretary may, in the sole,
13 unreviewable, and exclusive discretion of
14 the Secretary, determine whether to acti-
15 vate the requirements of the border emer-
16 gency authority under paragraph (3)(B)
17 until the number of days that the authority
18 has not been activated is equal to the num-
19 ber of days left in the calendar year; and

20 “(iii) when the number of calendar
21 days remaining in the calendar year is
22 equal to the number of days that the au-
23 thority has not been activated, the Sec-
24 retary shall be required to activate the bor-
25 der emergency authority for the remainder

1 of the calendar year on days during which
2 the requirements of paragraph (3)(B) have
3 been satisfied.

4 “(B) SECOND CALENDAR YEAR.—Notwith-
5 standing paragraph (3), beginning the second
6 calendar year after the effective date, the Sec-
7 retary shall only have the authority to activate
8 the border emergency authority for 225 cal-
9 endar days during the calendar year, provided
10 that—

11 “(i) during the first 75 calendar days
12 during which any of the requirements of
13 paragraph (3) have been satisfied, the Sec-
14 retary shall be required to activate the au-
15 thority;

16 “(ii) for the remaining 150 days that
17 the authority is available in the calendar
18 year, the Secretary may, in the sole,
19 unreviewable, and exclusive discretion of
20 the Secretary, determine whether to acti-
21 vate the requirements of the border emer-
22 gency authority under paragraph (3)(B)
23 until the number of days that the authority
24 has not been activated is equal to the num-
25 ber of days left in the calendar year; and

1 “(iii) when the number of calendar
2 days remaining in the calendar year is
3 equal to the number of days that the au-
4 thority has not been activated, the Sec-
5 retary shall be required to activate the bor-
6 der emergency authority for the remainder
7 of the calendar year on days during which
8 the requirements of paragraph (3)(B) have
9 been satisfied.

10 “(C) THIRD CALENDAR YEAR.—Notwith-
11 standing paragraph (3), beginning the third cal-
12 endar year after the effective date, the Sec-
13 retary shall only have the authority to activate
14 the border emergency authority for 180 cal-
15 endar days during the calendar year, provided
16 that—

17 “(i) during the first 60 calendar days
18 during which any of the requirements of
19 paragraph (3) have been satisfied, the Sec-
20 retary shall be required to activate the au-
21 thority;

22 “(ii) for the remaining 120 days that
23 the authority is available in each calendar
24 year, the Secretary may, in the sole,
25 unreviewable, and exclusive discretion of

1 the Secretary, determine whether to acti-
2 vate the requirements of the border emer-
3 gency authority under paragraph (3)(B)
4 until the number of days that the authority
5 has not been activated is equal to the num-
6 ber of days left in the calendar year; and

7 “(iii) when the number of calendar
8 days remaining in the calendar year is
9 equal to the number of days that the au-
10 thority has not been activated, the Sec-
11 retary shall be required to activate the bor-
12 der emergency authority for the remainder
13 of the calendar year on days during which
14 the requirements of paragraph (3)(B) have
15 been satisfied.

16 “(7) EMERGENCY SUSPENSION OF AUTHOR-
17 ITY.—

18 “(A) IN GENERAL.—If the President finds
19 that it is in the national interest to temporarily
20 suspend the border emergency authority, the
21 President may direct the Secretary to suspend
22 use of the border emergency authority on an
23 emergency basis.

24 “(B) DURATION.—In the case of a direc-
25 tion from the President under subparagraph

1 (A), the Secretary shall suspend the border
2 emergency authority for not more than 45 cal-
3 endar days within a calendar year, notwith-
4 standing any limitations on the use of the au-
5 thority described in this subsection.

6 “(c) CONTINUED ACCESS TO SOUTHWEST LAND
7 BORDER PORTS OF ENTRY.—

8 “(1) IN GENERAL.—During any activation of
9 the border emergency authority under subsection
10 (b), the Secretary shall maintain the capacity to
11 process, and continue processing, under section 235
12 or 235B a minimum of 1,400 inadmissible aliens
13 each calendar day cumulatively across all southwest
14 land border ports of entry in a safe and orderly
15 process developed by the Secretary.

16 “(2) SPECIAL RULES.—

17 “(A) UNACCOMPANIED ALIEN CHILDREN
18 EXCEPTION.—For the purpose of calculating
19 the number under paragraph (1), the Secretary
20 shall count all unaccompanied alien children,
21 who are nationals of contiguous countries, proc-
22 essed at southwest land border ports of entry,
23 but shall not count such children who are na-
24 tionals of noncontiguous countries.

1 “(B) TRANSITION RULES.—The provisions
2 of section 244A(c) shall apply to this section.

3 “(d) BAR TO ADMISSION.—Any alien who, during a
4 period of 365 days, has 2 or more summary removals pur-
5 suant to the border emergency authority, shall be inadmis-
6 sible for a period of 1 year beginning on the date of the
7 alien’s most recent summary removal.

8 “(e) SAVINGS PROVISIONS.—

9 “(1) UNACCOMPANIED ALIEN CHILDREN.—
10 Nothing in this section may be construed to interfere
11 with the processing of unaccompanied alien children
12 and such children are not subject to this section.

13 “(2) SETTLEMENT AGREEMENTS.—Nothing in
14 this section may be construed to interfere with any
15 rights or responsibilities established through a settle-
16 ment agreement in effect before the date of the en-
17 actment of this section.

18 “(3) RULE OF CONSTRUCTION.—For purposes
19 of the Convention Relating to the Status of Refu-
20 gees, done at Geneva July 28, 1952 (as made appli-
21 cable by the 1967 Protocol Relating to the Status of
22 Refugees, done at New York January 31, 1967 (19
23 UST 6223)), the Convention Against Torture, and
24 any other applicable treaty, as applied to this sec-

1 tion, the interview under this section shall occur only
2 in the context of the border emergency authority.

3 “(f) JUDICIAL REVIEW.—Judicial review of any deci-
4 sion or action applying the border emergency authority
5 shall be governed only by this subsection as follows:

6 “(1) Notwithstanding any other provision of
7 law, except as provided in paragraph (2), no court
8 or judge shall have jurisdiction to review any cause
9 or claim by an individual alien arising from the deci-
10 sion to enter a summary removal order against such
11 alien under this section, or removing such alien pur-
12 suant to such summary removal order.

13 “(2) The United States District Court for the
14 District of Columbia shall have sole and original ju-
15 risdiction to hear challenges, whether constitutional
16 or otherwise, to the validity of this section or any
17 written policy directive, written policy guideline,
18 written procedure, or the implementation thereof,
19 issued by or under the authority of the Secretary to
20 implement this section.

21 “(g) EFFECTIVE DATE.—

22 “(1) IN GENERAL.—This section shall take ef-
23 fect on the day after the date of the enactment of
24 this section.

1 “(2) 7-DAY PERIOD.—The initial activation of
2 the authority under subparagraph (A) or (B)(i) of
3 subsection (b)(3) shall take into account the average
4 number of encounters during the preceding 7 con-
5 secutive calendar days, as described in such subpara-
6 graphs, which may include the 6 consecutive cal-
7 endar days immediately preceding the date of the
8 enactment of this section.

9 “(h) RULEMAKING.—

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

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

23 “(3) REQUIREMENT.—All regulations promul-
24 gated to implement this section beginning on the
25 date that is 180 days after the date of the enact-

1 ment of this section shall be issued pursuant to the
2 requirements set forth in section 553 of title 5,
3 United States Code.

4 “(i) DEFINITIONS.—In this section:

5 “(1) BORDER EMERGENCY AUTHORITY.—The
6 term ‘border emergency authority’ means all au-
7 thorities and procedures under this section.

8 “(2) CONVENTION AGAINST TORTURE.—The
9 term ‘Convention Against Torture’ means the Con-
10 vention against Torture and Other Cruel, Inhuman
11 or Degrading Treatment or Punishment, done at
12 New York December 10, 1984, and includes the reg-
13 ulations implementing any law enacted pursuant to
14 Article 3 of the Convention against Torture and
15 Other Cruel, Inhuman or Degrading Treatment or
16 Punishment, done at New York December 10, 1984.

17 “(3) ENCOUNTER.—With respect to an alien,
18 the term ‘encounter’ means an alien who—

19 “(A) is physically apprehended by U.S.
20 Customs and Border Protection personnel—

21 “(i) within 100 miles of the southwest
22 land border of the United States during
23 the 14-day period immediately after entry
24 between ports of entry; or

1 “(ii) at the southern coastal borders
2 during the 14-day period immediately after
3 entry between ports of entry; or

4 “(B) is seeking admission at a southwest
5 land border port of entry and is determined to
6 be inadmissible, including an alien who utilizes
7 a process approved by the Secretary to allow for
8 safe and orderly entry into the United States.

9 “(4) SECRETARY.—The term ‘Secretary’ means
10 the Secretary of Homeland Security.

11 “(5) SOUTHERN COASTAL BORDERS.—The term
12 ‘southern coastal borders’ means all maritime bor-
13 ders in California, Texas, Louisiana, Mississippi,
14 Alabama, and Florida.

15 “(6) UNACCOMPANIED ALIEN CHILD.—The
16 term ‘unaccompanied alien child’ has the meaning
17 given such term in section 462(g)(2) of the Home-
18 land Security Act of 2002 (6 U.S.C. 279(g)(2)).

19 “(j) SUNSET.—This section—

20 “(1) shall take effect on the date of the enact-
21 ment of this section; and

22 “(2) shall be repealed effective as of the date
23 that is 3 years after such date of enactment.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 of the Immigration and Nationality Act (8 U.S.C. 1101

1 et seq.), as amended by section 3146(b), is further amend-
2 ed by inserting after the item relating to section 244A the
3 following:

“Sec. 244B Border emergency authority.”.

4 **Subtitle B—FEND Off Fentanyl Act**

5 **SEC. 3311. SHORT TITLES.**

6 This subtitle may be cited as the “Fentanyl Eradi-
7 cation and Narcotics Deterrence Off Fentanyl” or the
8 “FEND Off Fentanyl Act”.

9 **SEC. 3312. SENSE OF CONGRESS.**

10 It is the sense of Congress that—

11 (1) the proliferation of fentanyl is causing an
12 unprecedented surge in overdose deaths in the
13 United States, fracturing families and communities,
14 and necessitating a comprehensive policy response to
15 combat its lethal flow and to mitigate the drug’s
16 devastating consequences;

17 (2) the trafficking of fentanyl into the United
18 States is a national security threat that has killed
19 hundreds of thousands of United States citizens;

20 (3) transnational criminal organizations, includ-
21 ing cartels primarily based in Mexico, are the main
22 purveyors of fentanyl into the United States and
23 must be held accountable;

24 (4) precursor chemicals sourced from the Peo-
25 ple’s Republic of China are—

1 (A) shipped from the People's Republic of
2 China by legitimate and illegitimate means;

3 (B) transformed through various synthetic
4 processes to produce different forms of
5 fentanyl; and

6 (C) crucial to the production of illicit
7 fentanyl by transnational criminal organiza-
8 tions, contributing to the ongoing opioid crisis;

9 (5) the United States Government must remain
10 vigilant to address all new forms of fentanyl precur-
11 sors and drugs used in combination with fentanyl,
12 such as Xylazine, which attribute to overdose deaths
13 of people in the United States;

14 (6) to increase the cost of fentanyl trafficking,
15 the United States Government should work collabo-
16 ratively across agencies and should surge analytic
17 capability to impose sanctions and other remedies
18 with respect to transnational criminal organizations
19 (including cartels), including foreign nationals who
20 facilitate the trade in illicit fentanyl and its precur-
21 sors from the People's Republic of China; and

22 (7) the Department of the Treasury should
23 focus on fentanyl trafficking and its facilitators as
24 one of the top national security priorities for the De-
25 partment.

1 **SEC. 3313. DEFINITIONS.**

2 In this subtitle:

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

6 (A) the Committee on Banking, Housing,
7 and Urban Affairs of the Senate;

8 (B) the Committee on Foreign Relations of
9 the Senate;

10 (C) the Committee on Financial Services of
11 the House of Representatives; and

12 (D) the Committee on Foreign Affairs of
13 the House of Representatives.

14 (2) **FOREIGN PERSON.**—The term “foreign per-
15 son”—

16 (A) means—

17 (i) any citizen or national of a foreign
18 country; or

19 (ii) any entity not organized under the
20 laws of the United States or a jurisdiction
21 within the United States; and

22 (B) does not include the government of a
23 foreign country.

24 (3) **KNOWINGLY.**—The term “knowingly”, with
25 respect to conduct, a circumstance, or a result,
26 means that a person has actual knowledge, or should

1 have known, of the conduct, the circumstance, or the
2 result.

3 (4) TRAFFICKING.—The term “trafficking”,
4 with respect to fentanyl, fentanyl precursors, or
5 other related opioids, has the meaning given the
6 term “opioid trafficking” in section 7203(8) of the
7 Fentanyl Sanctions Act (21 U.S.C. 2302(8)).

8 (5) TRANSNATIONAL CRIMINAL ORGANIZA-
9 TION.—The term “transnational criminal organiza-
10 tion” includes—

11 (A) any organization designated as a sig-
12 nificant transnational criminal organization
13 under part 590 of title 31, Code of Federal
14 Regulations;

15 (B) any of the organizations known as—
16 (i) the Sinaloa Cartel;
17 (ii) the Jalisco New Generation Car-
18 tel;
19 (iii) the Gulf Cartel;
20 (iv) the Los Zetas Cartel;
21 (v) the Juarez Cartel;
22 (vi) the Tijuana Cartel;
23 (vii) the Beltran-Leyva Cartel; or
24 (viii) La Familia Michoacana; or

1 (C) any successor organization to an orga-
2 nization described in subparagraph (B) or as
3 otherwise determined by the President.

4 (6) UNITED STATES PERSON.—The term
5 “United States person” means—

6 (A) a United States citizen or an alien law-
7 fully admitted for permanent residence to the
8 United States;

9 (B) an entity organized under the laws of
10 the United States or of any jurisdiction within
11 the United States, including a foreign branch of
12 such an entity; or

13 (C) any person in the United States.

14 **CHAPTER 1—SANCTIONS MATTERS**

15 **Subchapter A—Sanctions in Response to Na-**
16 **tional Emergency Relating to Fentanyl**
17 **Trafficking**

18 **SEC. 3314. FINDING; POLICY.**

19 (a) FINDING.—Congress finds that international
20 trafficking of fentanyl, fentanyl precursors, or other re-
21 lated opioids constitutes an unusual and extraordinary
22 threat to the national security, foreign policy, and econ-
23 omy of the United States, and is a national emergency.

24 (b) POLICY.—It shall be the policy of the United
25 States to apply economic and other financial sanctions to

1 those who engage in the international trafficking of
2 fentanyl, fentanyl precursors, or other related opioids to
3 protect the national security, foreign policy, and economy
4 of the United States.

5 **SEC. 3315. USE OF NATIONAL EMERGENCY AUTHORITIES;**
6 **REPORTING.**

7 (a) IN GENERAL.—The President may exercise all
8 authorities provided under sections 203 and 205 of the
9 International Emergency Economic Powers Act (50
10 U.S.C. 1702 and 1704) to carry out this subchapter.

11 (b) REPORT REQUIRED.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of the enactment of this Act, and an-
14 nually thereafter, the President shall submit to the
15 appropriate congressional committees a report on ac-
16 tions taken by the executive branch pursuant to this
17 subchapter and any national emergency declared
18 with respect to the trafficking of fentanyl and trade
19 in other illicit drugs, including—

20 (A) the issuance of any new or revised reg-
21 ulations, policies, or guidance;

22 (B) the imposition of sanctions;

23 (C) the collection of relevant information
24 from outside parties;

1 (D) the issuance or closure of general li-
2 censes, specific licenses, and statements of li-
3 censing policy by the Office of Foreign Assets
4 Control;

5 (E) a description of any pending enforce-
6 ment cases; and

7 (F) the implementation of mitigation pro-
8 cedures.

9 (2) FORM OF REPORT.—Each report required
10 under paragraph (1) shall be submitted in unclassi-
11 fied form, but may include the matters required
12 under subparagraphs (C), (D), (E), and (F) of such
13 paragraph in a classified annex.

14 **SEC. 3316. IMPOSITION OF SANCTIONS WITH RESPECT TO**
15 **FENTANYL TRAFFICKING BY**
16 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

17 (a) IN GENERAL.—The President shall impose the
18 sanctions described in subsection (b) with respect to any
19 foreign person the President determines—

20 (1) is knowingly involved in the significant traf-
21 ficking of fentanyl, fentanyl precursors, or other re-
22 lated opioids, including such trafficking by a
23 transnational criminal organization; or

24 (2) otherwise is knowingly involved in signifi-
25 cant activities of a transnational criminal organiza-

1 tion relating to the trafficking of fentanyl, fentanyl
2 precursors, or other related opioids.

3 (b) **SANCTIONS DESCRIBED.**—The President, pursu-
4 ant to the International Emergency Economic Powers Act
5 (50 U.S.C. 1701 et seq.), may block and prohibit all trans-
6 actions in property and interests in property of a foreign
7 person described in subsection (a) if such property and
8 interests in property are in the United States, come within
9 the United States, or are or come within the possession
10 or control of a United States person.

11 (c) **REPORT REQUIRED.**—Not later than 180 days
12 after the date of the enactment of this Act, and annually
13 thereafter, the President shall submit to the appropriate
14 congressional committees a report on actions taken by the
15 executive branch with respect to the foreign persons iden-
16 tified under subsection (a).

17 **SEC. 3317. PENALTIES; WAIVERS; EXCEPTIONS.**

18 (a) **PENALTIES.**—Any person that violates, attempts
19 to violate, conspires to violate, or causes a violation of this
20 subchapter or any regulation, license, or order issued to
21 carry out this subchapter shall be subject to the penalties
22 set forth in subsections (b) and (c) of section 206 of the
23 International Emergency Economic Powers Act (50
24 U.S.C. 1705) to the same extent as a person that commits
25 an unlawful act described in subsection (a) of that section.

1 (b) NATIONAL SECURITY WAIVER.—The President
2 may waive the application of sanctions under this sub-
3 chapter with respect to a foreign person if the President
4 determines that such waiver is in the national security in-
5 terest of the United States.

6 (c) EXCEPTIONS.—

7 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
8 TIES.—This subchapter shall not apply with respect
9 to activities subject to the reporting requirements
10 under title V of the National Security Act of 1947
11 (50 U.S.C. 3091 et seq.) or any authorized intel-
12 ligence activities of the United States.

13 (2) EXCEPTION FOR COMPLIANCE WITH INTER-
14 NATIONAL OBLIGATIONS AND LAW ENFORCEMENT
15 ACTIVITIES.—Sanctions under this subchapter shall
16 not apply with respect to an alien if admitting or pa-
17 roling the alien into the United States is nec-
18 essary—

19 (A) to permit the United States to comply
20 with the Agreement regarding the Head-
21 quarters of the United Nations, signed at Lake
22 Success on June 26, 1947, and entered into
23 force November 21, 1947, between the United
24 Nations and the United States, or other appli-

1 cable international obligations of the United
2 States; or

3 (B) to carry out or assist law enforcement
4 activity of the United States.

5 (3) HUMANITARIAN EXEMPTION.—The Presi-
6 dent may not impose sanctions under this sub-
7 chapter with respect to any person for conducting or
8 facilitating a transaction for the sale of agricultural
9 commodities, food, medicine, or medical devices or
10 for the provision of humanitarian assistance.

11 **SEC. 3318. TREATMENT OF FORFEITED PROPERTY OF**
12 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

13 (a) TRANSFER OF FORFEITED PROPERTY TO FOR-
14 FEITURE FUNDS.—

15 (1) IN GENERAL.—Any covered forfeited prop-
16 erty shall be deposited into the Department of the
17 Treasury Forfeiture Fund established under section
18 9705 of title 31, United States Code, or the Depart-
19 ment of Justice Assets Forfeiture Fund established
20 under section 524(c) of title 28, United States Code.

21 (2) REPORT REQUIRED.—Not later than 180
22 days after the date of the enactment of this Act, and
23 every 180 days thereafter, the President shall sub-
24 mit to the appropriate congressional committees a
25 report on any deposits made under paragraph (1)

1 during the 180-day period preceding submission of
2 the report.

3 (3) COVERED FORFEITED PROPERTY DE-
4 FINED.—In this subsection, the term “covered for-
5 feited property” means property—

6 (A) forfeited to the United States under
7 chapter 46 or section 1963 of title 18, United
8 States Code; and

9 (B) that belonged to or was possessed by
10 an individual affiliated with or connected to a
11 transnational criminal organization subject to
12 sanctions under—

13 (i) this subchapter;

14 (ii) the Fentanyl Sanctions Act (21
15 U.S.C. 2301 et seq.); or

16 (iii) Executive Order 14059 (50
17 U.S.C. 1701 note; relating to imposing
18 sanctions on foreign persons involved in
19 the global illicit drug trade).

20 (b) BLOCKED ASSETS UNDER TERRORISM RISK IN-
21 SURANCE ACT OF 2002.—Nothing in this subchapter may
22 be construed to affect the treatment of blocked assets of
23 a terrorist party described in section 201(a) of the Ter-
24 rorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note).

1 **Subchapter B—Other Matters**
2 **SEC. 3319. TEN-YEAR STATUTE OF LIMITATIONS FOR VIOLA-**
3 **TIONS OF SANCTIONS.**

4 (a) INTERNATIONAL EMERGENCY ECONOMIC POW-
5 ERS ACT.—Section 206 of the International Emergency
6 Economic Powers Act (50 U.S.C. 1705) is amended by
7 adding at the end the following:

8 “(d) STATUTE OF LIMITATIONS.—

9 “(1) TIME FOR COMMENCING PROCEEDINGS.—

10 “(A) IN GENERAL.—An action, suit, or
11 proceeding for the enforcement of any civil fine,
12 penalty, or forfeiture, pecuniary or otherwise,
13 under this section shall not be entertained un-
14 less commenced within 10 years after the latest
15 date of the violation upon which the civil fine,
16 penalty, or forfeiture is based.

17 “(B) COMMENCEMENT.—For purposes of
18 this paragraph, the commencement of an ac-
19 tion, suit, or proceeding includes the issuance of
20 a pre-penalty notice or finding of violation.

21 “(2) TIME FOR INDICTMENT.—No person shall
22 be prosecuted, tried, or punished for any offense
23 under subsection (c) unless the indictment is found
24 or the information is instituted within 10 years after

1 the latest date of the violation upon which the in-
2 dictment or information is based.”.

3 (b) TRADING WITH THE ENEMY ACT.—Section 16
4 of the Trading with the Enemy Act (50 U.S.C. 4315) is
5 amended by adding at the end the following:

6 “(d) STATUTE OF LIMITATIONS.—

7 “(1) TIME FOR COMMENCING PROCEEDINGS.—

8 “(A) IN GENERAL.—An action, suit, or
9 proceeding for the enforcement of any civil fine,
10 penalty, or forfeiture, pecuniary or otherwise,
11 under this section shall not be entertained un-
12 less commenced within 10 years after the latest
13 date of the violation upon which the civil fine,
14 penalty, or forfeiture is based.

15 “(B) COMMENCEMENT.—For purposes of
16 this paragraph, the commencement of an ac-
17 tion, suit, or proceeding includes the issuance of
18 a pre-penalty notice or finding of violation.

19 “(2) TIME FOR INDICTMENT.—No person shall
20 be prosecuted, tried, or punished for any offense
21 under subsection (a) unless the indictment is found
22 or the information is instituted within 10 years after
23 the latest date of the violation upon which the in-
24 dictment or information is based.”.

1 **SEC. 3320. CLASSIFIED REPORT AND BRIEFING ON STAFF-**
2 **ING OF OFFICE OF FOREIGN ASSETS CON-**
3 **TROL.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Director of the Office of Foreign
6 Assets Control shall provide to the appropriate congres-
7 sional committees a classified report and briefing on the
8 staffing of the Office of Foreign Assets Control,
9 disaggregated by staffing dedicated to each sanctions pro-
10 gram and each country or issue.

11 **SEC. 3321. REPORT ON DRUG TRANSPORTATION ROUTES**
12 **AND USE OF VESSELS WITH MISLABELED**
13 **CARGO.**

14 Not later than 180 days after the date of the enact-
15 ment of this Act, the Secretary of the Treasury, in con-
16 junction with the heads of other relevant Federal agencies,
17 shall provide to the appropriate congressional committees
18 a classified report and briefing on efforts to target drug
19 transportation routes and modalities, including an assess-
20 ment of the prevalence of false cargo labeling and ship-
21 ment of precursor chemicals without accurate tracking of
22 the customers purchasing the chemicals.

1 **SEC. 3322. REPORT ON ACTIONS OF PEOPLE’S REPUBLIC OF**
2 **CHINA WITH RESPECT TO PERSONS IN-**
3 **VOLVED IN FENTANYL SUPPLY CHAIN.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Secretary of the Treasury, in con-
6 junction with the heads of other relevant Federal agencies,
7 shall provide to the appropriate congressional committees
8 a classified report and briefing on actions taken by the
9 Government of the People’s Republic of China with respect
10 to persons involved in the shipment of fentanyl, fentanyl
11 analogues, fentanyl precursors, precursors for fentanyl
12 analogues, and equipment for the manufacturing of
13 fentanyl and fentanyl-laced counterfeit pills.

14 **CHAPTER 2—ANTI-MONEY LAUNDERING**
15 **MATTERS**

16 **SEC. 3323. DESIGNATION OF ILLICIT FENTANYL TRANS-**
17 **ACTIONS OF SANCTIONED PERSONS AS OF**
18 **PRIMARY MONEY LAUNDERING CONCERN.**

19 (a) IN GENERAL.—Subtitle A of the Fentanyl Sanc-
20 tions Act (21 U.S.C. 2311 et seq.) is amended by inserting
21 after section 7213 the following:

22 **“SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANC-**
23 **TIONED PERSONS AS OF PRIMARY MONEY**
24 **LAUNDERING CONCERN.**

25 “(a) IN GENERAL.—If the Secretary of the Treasury
26 determines that reasonable grounds exist for concluding

1 that 1 or more financial institutions operating outside of
2 the United States, 1 or more classes of transactions with-
3 in, or involving, a jurisdiction outside of the United States,
4 or 1 or more types of accounts within, or involving, a juris-
5 diction outside of the United States, is of primary money
6 laundering concern in connection with illicit opioid traf-
7 ficking, the Secretary of the Treasury may, by order, regu-
8 lation, or otherwise as permitted by law—

9 “(1) require domestic financial institutions and
10 domestic financial agencies to take 1 or more of the
11 special measures provided for in section 9714(a)(1)
12 of the National Defense Authorization Act for Fiscal
13 Year 2021 (Public Law 116–283; 31 U.S.C. 5318A
14 note); or

15 “(2) prohibit, or impose conditions upon, cer-
16 tain transmittals of funds (to be defined by the Sec-
17 retary) by any domestic financial institution or do-
18 mestic financial agency, if such transmittal of funds
19 involves any such institution, class of transaction, or
20 type of accounts.

21 “(b) CLASSIFIED INFORMATION.—In any judicial re-
22 view of a finding of the existence of a primary money laun-
23 dering concern, or of the requirement for 1 or more special
24 measures with respect to a primary money laundering con-
25 cern made under this section, if the designation or imposi-

1 tion, or both, were based on classified information (as de-
2 fined in section 1(a) of the Classified Information Proce-
3 dures Act (18 U.S.C. App.)), such information may be
4 submitted by the Secretary to the reviewing court ex parte
5 and in camera. This subsection does not confer or imply
6 any right to judicial review of any finding made or any
7 requirement imposed under this section.

8 “(c) AVAILABILITY OF INFORMATION.—The exemp-
9 tions from, and prohibitions on, search and disclosure re-
10 ferred to in section 9714(c) of the National Defense Au-
11 thorization Act for Fiscal Year 2021 (Public Law 116–
12 283; 31 U.S.C. 5318A note) shall apply to any report or
13 record of report filed pursuant to a requirement imposed
14 under subsection (a). For purposes of section 552 of title
15 5, United States Code, this subsection shall be considered
16 a statute described in subsection (b)(3)(B) of such section.

17 “(d) PENALTIES.—The penalties referred to in sec-
18 tion 9714(d) of the National Defense Authorization Act
19 for Fiscal Year 2021 (Public Law 116–283; 31 U.S.C.
20 5318A note) shall apply to violations of any order, regula-
21 tion, special measure, or other requirement imposed under
22 subsection (a), in the same manner and to the same extent
23 as described in such section 9714(d).

24 “(e) INJUNCTIONS.—The Secretary of the Treasury
25 may bring a civil action to enjoin a violation of any order,

1 regulation, special measure, or other requirement imposed
2 under subsection (a) in the same manner and to the same
3 extent as described in section 9714(e) of the National De-
4 fense Authorization Act for Fiscal Year 2021 (Public Law
5 116–283; 31 U.S.C. 5318A note).”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for the National Defense Authorization Act for Fiscal
8 Year 2020 (Public Law 116–92) is amended by inserting
9 after the item relating to section 7213 the following:

“Sec. 7213A. Designation of transactions of sanctioned persons as of primary
money laundering concern.”.

10 **SEC. 3324. TREATMENT OF TRANSNATIONAL CRIMINAL OR-**
11 **GANIZATIONS IN SUSPICIOUS TRANSACTIONS**
12 **REPORTS OF THE FINANCIAL CRIMES EN-**
13 **FORCEMENT NETWORK.**

14 (a) FILING INSTRUCTIONS.—Not later than 180 days
15 after the date of the enactment of this Act, the Director
16 of the Financial Crimes Enforcement Network shall issue
17 guidance or instructions to United States financial institu-
18 tions for filing reports on suspicious transactions required
19 under section 1010.320 of title 31, Code of Federal Regu-
20 lations, related to suspected fentanyl trafficking by
21 transnational criminal organizations.

22 (b) PRIORITIZATION OF REPORTS RELATING TO
23 FENTANYL TRAFFICKING OR TRANSNATIONAL CRIMINAL
24 ORGANIZATIONS.—The Director shall prioritize research

1 into reports described in subsection (a) that indicate a
2 connection to trafficking of fentanyl or related synthetic
3 opioids or financing of suspected transnational criminal
4 organizations.

5 **SEC. 3325. REPORT ON TRADE-BASED MONEY LAUNDERING**
6 **IN TRADE WITH MEXICO, THE PEOPLE'S RE-**
7 **PUBLIC OF CHINA, AND BURMA.**

8 (a) IN GENERAL.—In the first update to the national
9 strategy for combating the financing of terrorism and re-
10 lated forms of illicit finance submitted to Congress after
11 the date of the enactment of this Act, the Secretary of
12 the Treasury shall include a report on trade-based money
13 laundering originating in Mexico or the People's Republic
14 of China and involving Burma.

15 (b) DEFINITION.—In this section, the term “national
16 strategy for combating the financing of terrorism and re-
17 lated forms of illicit finance” means the national strategy
18 for combating the financing of terrorism and related forms
19 of illicit finance required under section 261 of the Coun-
20 tering America's Adversaries Through Sanctions Act
21 (Public Law 115–44; 131 Stat. 934), as amended by sec-
22 tion 6506 of the National Defense Authorization Act for
23 Fiscal Year 2022 (Public Law 117–81; 135 Stat. 2428).

1 **CHAPTER 3—EXCEPTION RELATING TO**
2 **IMPORTATION OF GOODS**

3 **SEC. 3326. EXCEPTION RELATING TO IMPORTATION OF**
4 **GOODS.**

5 (a) **IN GENERAL.**—The authority or a requirement
6 to block and prohibit all transactions in all property and
7 interests in property under this subtitle shall not include
8 the authority or a requirement to impose sanctions on the
9 importation of goods.

10 (b) **GOOD DEFINED.**—In this section, the term
11 “good” means any article, natural or manmade substance,
12 material, supply or manufactured product, including in-
13 spection and test equipment, and excluding technical data.

14 **Subtitle C—Fulfilling Promises to**
15 **Afghan Allies**

16 **SEC. 3331. DEFINITIONS.**

17 In this subtitle:

18 (1) **APPROPRIATE COMMITTEES OF CON-**
19 **GRESS.**—The term “appropriate committees of Con-
20 gress” means—

21 (A) the Committee on the Judiciary of the
22 Senate;

23 (B) the Committee on Foreign Relations of
24 the Senate;

1 (C) the Committee on Armed Services of
2 the Senate;

3 (D) the Committee on Appropriations of
4 the Senate;

5 (E) the Committee on Homeland Security
6 and Governmental Affairs of the Senate;

7 (F) the Committee on the Judiciary of the
8 House of Representatives;

9 (G) the Committee on Foreign Affairs of
10 the House of Representatives;

11 (H) the Committee on Armed Services of
12 the House of Representatives;

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

15 (J) the Committee on Homeland Security
16 of the House of Representatives.

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

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Homeland Security.

23 (4) SPECIAL IMMIGRANT STATUS.—The term
24 “special immigrant status” means special immigrant
25 status provided under—

1 (A) the Afghan Allies Protection Act of
2 2009 (8 U.S.C. 1101 note; Public Law 111–8);

3 (B) section 1059 of the National Defense
4 Authorization Act for Fiscal Year 2006 (8
5 U.S.C. 1101 note; Public Law 109–163); or

6 (C) subparagraph (N) of section
7 101(a)(27) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(a)(27)), as added by sec-
9 tion 3336(a).

10 (5) SPECIFIED APPLICATION.—The term “spec-
11 ified application” means—

12 (A) a pending, documentarily complete ap-
13 plication for special immigrant status; and

14 (B) a case in processing in the United
15 States Refugee Admissions Program for an in-
16 dividual who has received a Priority 1 or Pri-
17 ority 2 referral to such program.

18 (6) UNITED STATES REFUGEE ADMISSIONS
19 PROGRAM.—The term “United States Refugee Ad-
20 missions Program” means the program to resettle
21 refugees in the United States pursuant to the au-
22 thorities provided in sections 101(a)(42), 207, and
23 412 of the Immigration and Nationality Act (8
24 U.S.C. 1101(a)(42), 1157, and 1522).

1 **SEC. 3332. SUPPORT FOR AFGHAN ALLIES OUTSIDE THE**
2 **UNITED STATES.**

3 (a) **RESPONSE TO CONGRESSIONAL INQUIRIES.**—The
4 Secretary of State shall respond to inquiries by Members
5 of Congress regarding the status of a specified application
6 submitted by, or on behalf of, a national of Afghanistan,
7 including any information that has been provided to the
8 applicant, in accordance with section 222(f) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1202(f)).

10 (b) **OFFICE IN LIEU OF EMBASSY.**—During the pe-
11 riod in which there is no operational United States em-
12 bassy in Afghanistan, the Secretary of State shall des-
13 ignate an appropriate office within the Department of
14 State—

15 (1) to review specified applications submitted by
16 nationals of Afghanistan residing in Afghanistan, in-
17 cluding by conducting any required interviews;

18 (2) to issue visas or other travel documents to
19 such nationals, in accordance with the immigration
20 laws;

21 (3) to provide services to such nationals, to the
22 greatest extent practicable, that would normally be
23 provided by an embassy; and

24 (4) to carry out any other function the Sec-
25 retary of State considers necessary.

1 **SEC. 3333. CONDITIONAL PERMANENT RESIDENT STATUS**
2 **FOR ELIGIBLE INDIVIDUALS.**

3 (a) DEFINITIONS.—In this section:

4 (1) CONDITIONAL PERMANENT RESIDENT STA-
5 TUS.—The term “conditional permanent resident
6 status” means conditional permanent resident status
7 under section 216 and 216A of the Immigration and
8 Nationality Act (8 U.S.C. 1186a, 1186b), subject to
9 the provisions of this section.

10 (2) ELIGIBLE INDIVIDUAL.—The term “eligible
11 individual” means an alien who—

12 (A) is present in the United States;

13 (B) is a citizen or national of Afghanistan
14 or, in the case of an alien having no nationality,
15 is a person who last habitually resided in Af-
16 ghanistan;

17 (C) has not been granted permanent resi-
18 dent status;

19 (D)(i) was inspected and admitted to the
20 United States on or before the date of the en-
21 actment of this Act; or

22 (ii) was paroled into the United States
23 during the period beginning on July 30, 2021,
24 and ending on the date of the enactment of this
25 Act, provided that such parole has not been ter-

1 minated by the Secretary upon written notice;
2 and

3 (E) is admissible to the United States as
4 an immigrant under the immigration laws, in-
5 cluding eligibility for waivers of grounds of in-
6 admissibility to the extent provided by the im-
7 migration laws and subject to the terms of sub-
8 section (c) of this section.

9 (b) **CONDITIONAL PERMANENT RESIDENT STATUS**
10 **FOR ELIGIBLE INDIVIDUALS.—**

11 (1) **ADJUSTMENT OF STATUS TO CONDITIONAL**
12 **PERMANENT RESIDENT STATUS.—**Beginning on the
13 date of the enactment of this Act, the Secretary
14 may—

15 (A) adjust the status of each eligible indi-
16 vidual to that of an alien lawfully admitted for
17 permanent residence status, subject to the pro-
18 cedures established by the Secretary to deter-
19 mine eligibility for conditional permanent resi-
20 dent status; and

21 (B) create for each eligible individual a
22 record of admission to such status as of the
23 date on which the eligible individual was ini-
24 tially inspected and admitted or paroled into

1 the United States, or July 30, 2021, whichever
2 is later,

3 unless the Secretary determines, on a case-by-
4 case basis, that such individual is subject to any
5 ground of inadmissibility under section 212 (other
6 than subsection (a)(4)) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1182) and is not eligible for
8 a waiver of such grounds of inadmissibility as pro-
9 vided by this subtitle or by the immigration laws.

10 (2) **CONDITIONAL BASIS.**—An individual who
11 obtains lawful permanent resident status under this
12 section shall be considered, at the time of obtaining
13 the status of an alien lawfully admitted for perma-
14 nent residence, to have obtained such status on a
15 conditional basis subject to the provisions of this
16 section.

17 (c) **CONDITIONAL PERMANENT RESIDENT STATUS**
18 **DESCRIBED.**—

19 (1) **ASSESSMENT.**—

20 (A) **IN GENERAL.**—Before granting condi-
21 tional permanent resident status to an eligible
22 individual under subsection (b)(1), the Sec-
23 retary shall conduct an assessment with respect
24 to the eligible individual, which shall be equiva-
25 lent in rigor to the assessment conducted with

1 respect to refugees admitted to the United
2 States through the United States Refugee Ad-
3 missions Program, for the purpose of deter-
4 mining whether the eligible individual is subject
5 to any ground of inadmissibility under section
6 212 (other than subsection (a)(4)) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1182).

8 (B) CONSULTATION.—In conducting an as-
9 sessment under subparagraph (A), the Sec-
10 retary may consult with the head of any other
11 relevant agency and review the holdings of any
12 such agency.

13 (2) REMOVAL OF CONDITIONS.—

14 (A) IN GENERAL.—Not earlier than the
15 date described in subparagraph (B), the Sec-
16 retary may remove the conditional basis of the
17 status of an individual granted conditional per-
18 manent resident status under this section un-
19 less the Secretary determines, on a case-by-case
20 basis, that such individual is subject to any
21 ground of inadmissibility under paragraph (2)
22 or (3) of section 212(a) of the Immigration and
23 Nationality Act (8 U.S.C. 1182(a)), and is not
24 eligible for a waiver of such grounds of inadmis-

1 sibility as provided by this subtitle or by the im-
2 migration laws.

3 (B) DATE DESCRIBED.—The date de-
4 scribed in this subparagraph is the earlier of—

5 (i) the date that is 4 years after the
6 date on which the individual was admitted
7 or paroled into the United States; or

8 (ii) July 1, 2027.

9 (C) WAIVER.—

10 (i) IN GENERAL.—Except as provided
11 in clause (ii), with respect to an eligible in-
12 dividual, the Secretary may waive the ap-
13 plication of the grounds of inadmissibility
14 under 212(a) of the Immigration and Na-
15 tionality Act (8 U.S.C. 1182(a)) for hu-
16 manitarian purposes or to ensure family
17 unity.

18 (ii) EXCEPTIONS.—The Secretary may
19 not waive under clause (i) the application
20 of subparagraphs (C) through (E) and (G)
21 through (H) of paragraph (2), or para-
22 graph (3), of section 212(a) of the Immi-
23 gration and Nationality Act (8 U.S.C.
24 1182(a)).

1 (iii) RULE OF CONSTRUCTION.—Noth-
2 ing in this subparagraph may be construed
3 to expand or limit any other waiver author-
4 ity applicable under the immigration laws
5 to an applicant for adjustment of status.

6 (D) TIMELINE.—Not later than 180 days
7 after the date described in subparagraph (B),
8 the Secretary shall endeavor to remove condi-
9 tions as to all individuals granted conditional
10 permanent resident status under this section
11 who are eligible for removal of conditions.

12 (3) TREATMENT OF CONDITIONAL BASIS OF
13 STATUS PERIOD FOR PURPOSES OF NATURALIZA-
14 TION.—An individual in conditional permanent resi-
15 dent status under this section, or who otherwise
16 meets the requirements under (a)(1) of this section,
17 shall be considered—

18 (A) to have been admitted to the United
19 States as an alien lawfully admitted for perma-
20 nent residence; and

21 (B) to be present in the United States as
22 an alien lawfully admitted to the United States
23 for permanent residence, provided that, no alien
24 shall be naturalized unless the alien's conditions
25 have been removed under this section.

1 (d) TERMINATION OF CONDITIONAL PERMANENT
2 RESIDENT STATUS.—

3 (1) IN GENERAL.—Conditional permanent resi-
4 dent status shall terminate on, as applicable—

5 (A) the date on which the Secretary re-
6 moves the conditions pursuant to subsection
7 (c)(2), on which date the alien shall be lawfully
8 admitted for permanent residence without con-
9 ditions;

10 (B) the date on which the Secretary deter-
11 mines that the alien was not an eligible indi-
12 vidual under subsection (a)(2) as of the date
13 that such conditional permanent resident status
14 was granted, on which date of the Secretary's
15 determination the alien shall no longer be an
16 alien lawfully admitted for permanent residence;
17 or

18 (C) the date on which the Secretary deter-
19 mines pursuant to subsection (c)(2) that the
20 alien is not eligible for removal of conditions, on
21 which date the alien shall no longer be an alien
22 lawfully admitted for permanent residence.

23 (2) NOTIFICATION.—If the Secretary termi-
24 nates status under this subsection, the Secretary

1 shall so notify the individual in writing and state the
2 reasons for the termination.

3 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed to limit the authority of the Sec-
5 retary at any time to place in removal proceedings under
6 section 240 of the Immigration and Nationality Act (8
7 U.S.C. 1229a) any alien who has conditional permanent
8 resident status under this section, if the alien is deportable
9 under section 237 of such Act (8 U.S.C. 1227) under a
10 ground of deportability applicable to an alien who has been
11 lawfully admitted for permanent residence.

12 (f) PAROLE EXPIRATION TOLLED.—The expiration
13 date of a period of parole shall not apply to an individual
14 under consideration for conditional permanent resident
15 status under this section, until such time as the Secretary
16 has determined whether to issue conditional permanent
17 resident status.

18 (g) PERIODIC NONADVERSARIAL MEETINGS.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date on which an individual is conferred
21 conditional permanent resident status under this
22 section, and periodically thereafter, the Office of
23 Refugee Resettlement shall make available opportu-
24 nities for the individual to participate in a nonadver-
25 sarial meeting, during which an official of the Office

1 of Refugee Resettlement (or an agency funded by
2 the Office) shall—

3 (A) on request by the individual, assist the
4 individual in a referral or application for appli-
5 cable benefits administered by the Department
6 of Health and Human Services and completing
7 any applicable paperwork; and

8 (B) answer any questions regarding eligi-
9 bility for other benefits administered by the
10 United States Government.

11 (2) NOTIFICATION OF REQUIREMENTS.—Not
12 later than 7 days before the date on which a meeting
13 under paragraph (1) is scheduled to occur, the Sec-
14 retary of Health and Human Services shall provide
15 notice to the individual that includes the date of the
16 scheduled meeting and a description of the process
17 for rescheduling the meeting.

18 (3) CONDUCT OF MEETING.—The Secretary of
19 Health and Human Services shall implement prac-
20 tices to ensure that—

21 (A) meetings under paragraph (1) are con-
22 ducted in a nonadversarial manner; and

23 (B) interpretation and translation services
24 are provided to individuals granted conditional

1 permanent resident status under this section
2 who have limited English proficiency.

3 (4) RULES OF CONSTRUCTION.—Nothing in
4 this subsection shall be construed—

5 (A) to prevent an individual from electing
6 to have counsel present during a meeting under
7 paragraph (1); or

8 (B) in the event that an individual declines
9 to participate in such a meeting, to affect the
10 individual's conditional permanent resident sta-
11 tus under this section or eligibility to have con-
12 ditions removed in accordance with this section.

13 (h) CONSIDERATION.—Except with respect to an ap-
14 plication for naturalization and the benefits described in
15 subsection (p), an individual in conditional permanent
16 resident status under this section shall be considered to
17 be an alien lawfully admitted for permanent residence for
18 purposes of the adjudication of an application or petition
19 for a benefit or the receipt of a benefit.

20 (i) NOTIFICATION OF REQUIREMENTS.—Not later
21 than 90 days after the date on which the status of an
22 individual is adjusted to that of conditional permanent
23 resident status under this section, the Secretary shall pro-
24 vide notice to such individual with respect to the provisions
25 of this section, including subsection (c)(1) (relating to the

1 conduct of assessments) and subsection (g) (relating to
2 periodic nonadversarial meetings).

3 (j) APPLICATION FOR NATURALIZATION.—The Sec-
4 retary shall establish procedures whereby an individual
5 who would otherwise be eligible to apply for naturalization
6 but for having conditional permanent resident status, may
7 be considered for naturalization coincident with removal
8 of conditions under subsection (c)(2).

9 (k) ADJUSTMENT OF STATUS DATE.—

10 (1) IN GENERAL.—An alien described in para-
11 graph (2) shall be regarded as lawfully admitted for
12 permanent residence as of the date the alien was ini-
13 tially inspected and admitted or paroled into the
14 United States, or July 30, 2021, whichever is later.

15 (2) ALIEN DESCRIBED.—An alien described in
16 this paragraph is an alien who—

17 (A) is described in subparagraph (A), (B),
18 or (D) of subsection (a)(2), and whose status
19 was adjusted to that of an alien lawfully admit-
20 ted for permanent residence on or after July
21 30, 2021, but on or before the date of the en-
22 actment of this Act; or

23 (B) is an eligible individual whose status is
24 then adjusted to that of an alien lawfully admit-
25 ted for permanent residence after the date of

1 the enactment of this Act under any provision
2 of the immigration laws other than this section.

3 (1) PARENTS AND LEGAL GUARDIANS OF UNACCOM-
4 PANIED CHILDREN.—A parent or legal guardian of an eli-
5 gible individual shall be eligible to obtain status as an alien
6 lawfully admitted for permanent residence on a conditional
7 basis if—

8 (1) the eligible individual—

9 (A) was under 18 years of age on the date
10 on which the eligible individual was granted
11 conditional permanent resident status under
12 this section; and

13 (B) was not accompanied by at least one
14 parent or guardian on the date the eligible indi-
15 vidual was admitted or paroled into the United
16 States; and

17 (2) such parent or legal guardian was admitted
18 or paroled into the United States after the date re-
19 ferred to in paragraph (1)(B).

20 (m) GUIDANCE.—

21 (1) INTERIM GUIDANCE.—

22 (A) IN GENERAL.—Not later than 120
23 days after the date of the enactment of this
24 Act, the Secretary shall issue guidance imple-
25 menting this section.

1 (B) PUBLICATION.—Notwithstanding sec-
2 tion 553 of title 5, United States Code, guid-
3 ance issued pursuant to subparagraph (A)—

4 (i) may be published on the internet
5 website of the Department of Homeland
6 Security; and

7 (ii) shall be effective on an interim
8 basis immediately upon such publication
9 but may be subject to change and revision
10 after notice and an opportunity for public
11 comment.

12 (2) FINAL GUIDANCE.—

13 (A) IN GENERAL.—Not later than 180
14 days after the date of issuance of guidance
15 under paragraph (1), the Secretary shall final-
16 ize the guidance implementing this section.

17 (B) EXEMPTION FROM THE ADMINISTRA-
18 TIVE PROCEDURES ACT.—Chapter 5 of title 5,
19 United States Code (commonly known as the
20 “Administrative Procedures Act”), or any other
21 law relating to rulemaking or information col-
22 lection, shall not apply to the guidance issued
23 under this paragraph.

24 (n) ASYLUM CLAIMS.—

1 (1) IN GENERAL.—With respect to the adju-
2 dication of an application for asylum submitted by
3 an eligible individual, section 2502(c) of the Extend-
4 ing Government Funding and Delivering Emergency
5 Assistance Act (8 U.S.C. 1101 note; Public Law
6 117–43) shall not apply.

7 (2) RULE OF CONSTRUCTION.—Nothing in this
8 section may be construed to prohibit an eligible indi-
9 vidual from seeking or receiving asylum under sec-
10 tion 208 of the Immigration and Nationality Act (8
11 U.S.C. 1158).

12 (o) PROHIBITION ON FEES.—The Secretary may not
13 charge a fee to any eligible individual in connection with
14 the initial issuance under this section of—

15 (1) a document evidencing status as an alien
16 lawfully admitted for permanent residence or condi-
17 tional permanent resident status; or

18 (2) an employment authorization document.

19 (p) ELIGIBILITY FOR BENEFITS.—

20 (1) IN GENERAL.—Notwithstanding any other
21 provision of law—

22 (A) an individual described in subsection
23 (a) of section 2502 of the Afghanistan Supple-
24 mental Appropriations Act, 2022 (8 U.S.C.
25 1101 note; Public Law 117–43) shall retain his

1 or her eligibility for the benefits and services
2 described in subsection (b) of such section if the
3 individual has a pending application, or is
4 granted adjustment of status, under this sec-
5 tion; and

6 (B) such benefits and services shall remain
7 available to the individual to the same extent
8 and for the same periods of time as such bene-
9 fits and services are otherwise available to refu-
10 gees who acquire such status.

11 (2) EXCEPTION FROM 5-YEAR LIMITED ELIGI-
12 BILITY FOR MEANS-TESTED PUBLIC BENEFITS.—
13 Section 403(b)(1) of the Personal Responsibility and
14 Work Opportunity Reconciliation Act of 1996 (8
15 U.S.C. 1613(b)(1)) is amended by adding at the end
16 the following:

17 “(F) An alien whose status is adjusted
18 under section 3333 of the Border Act to that
19 of an alien lawfully admitted for permanent res-
20 idence or to that of an alien lawfully admitted
21 for permanent residence on a conditional
22 basis.”.

23 (q) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion may be construed to preclude an eligible individual

1 from applying for or receiving any immigration benefit to
2 which the individual is otherwise entitled.

3 (r) EXEMPTION FROM NUMERICAL LIMITATIONS.—

4 (1) IN GENERAL.—Aliens granted conditional
5 permanent resident status or lawful permanent resi-
6 dent status under this section shall not be subject to
7 the numerical limitations under sections 201, 202,
8 and 203 of the Immigration and Nationality Act (8
9 U.S.C. 1151, 1152, and 1153).

10 (2) SPOUSE AND CHILDREN BENEFICIARIES.—

11 A spouse or child who is the beneficiary of an immi-
12 grant petition under section 204 of the Immigration
13 and Nationality Act (8 U.S.C. 1154) filed by an
14 alien who has been granted conditional permanent
15 resident status or lawful permanent resident status
16 under this section, seeking classification of the
17 spouse or child under section 203(a)(2)(A) of that
18 Act (8 U.S.C. 1153(a)(2)(A)) shall not be subject to
19 the numerical limitations under sections 201, 202,
20 and 203 of the Immigration and Nationality Act (8
21 U.S.C. 1151, 1152, and 1153).

22 (s) EFFECT ON OTHER APPLICATIONS.—Notwith-
23 standing any other provision of law, in the interest of effi-
24 ciency, the Secretary may pause consideration of any ap-
25 plication or request for an immigration benefit pending

1 adjudication so as to prioritize an application for adjust-
2 ment of status to an alien lawfully admitted for permanent
3 residence under this section.

4 (t) AUTHORIZATION FOR APPROPRIATIONS.—There
5 is authorized to be appropriated to the Attorney General,
6 the Secretary of Health and Human Services, the Sec-
7 retary, and the Secretary of State such sums as are nec-
8 essary to carry out this section.

9 **SEC. 3334. REFUGEE PROCESSES FOR CERTAIN AT-RISK AF-**
10 **GHAN ALLIES.**

11 (a) DEFINITION OF AFGHAN ALLY.—

12 (1) IN GENERAL.—In this section, the term
13 “Afghan ally” means an alien who is a citizen or na-
14 tional of Afghanistan, or in the case of an alien hav-
15 ing no nationality, an alien who last habitually re-
16 sided in Afghanistan, who—

17 (A) was—

18 (i) a member of—

19 (I) the special operations forces
20 of the Afghanistan National Defense
21 and Security Forces;

22 (II) the Afghanistan National
23 Army Special Operations Command;

24 (III) the Afghan Air Force; or

1 (IV) the Special Mission Wing of
2 Afghanistan;

3 (ii) a female member of any other en-
4 tity of the Afghanistan National Defense
5 and Security Forces, including—

6 (I) a cadet or instructor at the
7 Afghanistan National Defense Univer-
8 sity; and

9 (II) a civilian employee of the
10 Ministry of Defense or the Ministry of
11 Interior Affairs;

12 (iii) an individual associated with
13 former Afghan military and police human
14 intelligence activities, including operators
15 and Department of Defense sources;

16 (iv) an individual associated with
17 former Afghan military counterintelligence,
18 counterterrorism, or counternarcotics;

19 (v) an individual associated with the
20 former Afghan Ministry of Defense, Min-
21 istry of Interior Affairs, or court system,
22 and who was involved in the investigation,
23 prosecution or detention of combatants or
24 members of the Taliban or criminal net-
25 works affiliated with the Taliban; or

1 (vi) a senior military officer, senior
2 enlisted personnel, or civilian official who
3 served on the staff of the former Ministry
4 of Defense or the former Ministry of Inte-
5 rior Affairs of Afghanistan; or

6 (B) provided service to an entity or organi-
7 zation described in subparagraph (A) for not
8 less than 1 year during the period beginning on
9 December 22, 2001, and ending on September
10 1, 2021, and did so in support of the United
11 States mission in Afghanistan.

12 (2) INCLUSIONS.—For purposes of this section,
13 the Afghanistan National Defense and Security
14 Forces includes members of the security forces
15 under the Ministry of Defense and the Ministry of
16 Interior Affairs of the Islamic Republic of Afghani-
17 stan, including the Afghanistan National Army, the
18 Afghan Air Force, the Afghanistan National Police,
19 and any other entity designated by the Secretary of
20 Defense as part of the Afghanistan National De-
21 fense and Security Forces during the relevant period
22 of service of the applicant concerned.

23 (b) REFUGEE STATUS FOR AFGHAN ALLIES.—

24 (1) DESIGNATION AS REFUGEES OF SPECIAL
25 HUMANITARIAN CONCERN.—Afghan allies shall be

1 considered refugees of special humanitarian concern
2 under section 207 of the Immigration and Nation-
3 ality Act (8 U.S.C. 1157), until the later of 10 years
4 after the date of enactment of this Act or upon de-
5 termination by the Secretary of State, in consulta-
6 tion with the Secretary of Defense and the Sec-
7 retary, that such designation is no longer in the in-
8 terest of the United States.

9 (2) THIRD COUNTRY PRESENCE NOT RE-
10 QUIRED.—Notwithstanding section 101(a)(42) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1101(a)(42)), the Secretary of State and the Sec-
13 retary shall, to the greatest extent possible, conduct
14 remote refugee processing for an Afghan ally located
15 in Afghanistan.

16 (c) AFGHAN ALLIES REFERRAL PROGRAM.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of the enactment of this Act—

19 (A) the Secretary of Defense, in consulta-
20 tion with the Secretary of State, shall establish
21 a process by which an individual may apply to
22 the Secretary of Defense for classification as an
23 Afghan ally and request a referral to the United
24 States Refugee Admissions Program; and

1 (B) the head of any appropriate depart-
2 ment or agency that conducted operations in
3 Afghanistan during the period beginning on De-
4 cember 22, 2001, and ending on September 1,
5 2021, in consultation with the Secretary of
6 State, may establish a process by which an indi-
7 vidual may apply to the head of the appropriate
8 department or agency for classification as an
9 Afghan ally and request a referral to the United
10 States Refugee Admissions Program.

11 (2) APPLICATION SYSTEM.—

12 (A) IN GENERAL.—The process established
13 under paragraph (1) shall—

14 (i) include the development and main-
15 tenance of a secure online portal through
16 which applicants may provide information
17 verifying their status as Afghan allies and
18 upload supporting documentation; and

19 (ii) allow—

20 (I) an applicant to submit his or
21 her own application;

22 (II) a designee of an applicant to
23 submit an application on behalf of the
24 applicant; and

1 (III) in the case of an applicant
2 who is outside the United States, the
3 submission of an application regard-
4 less of where the applicant is located.

5 (B) USE BY OTHER AGENCIES.—The Sec-
6 retary of Defense may enter into arrangements
7 with the head of any other appropriate depart-
8 ment or agency so as to allow the application
9 system established under subparagraph (A) to
10 be used by such department or agency.

11 (3) REVIEW PROCESS.—As soon as practicable
12 after receiving a request for classification and refer-
13 ral described in paragraph (1), the head of the ap-
14 propriate department or agency shall—

15 (A) review—

16 (i) the service record of the applicant,
17 if available;

18 (ii) if the applicant provides a service
19 record or other supporting documentation,
20 any information that helps verify the serv-
21 ice record concerned, including information
22 or an attestation provided by any current
23 or former official of the department or
24 agency who has personal knowledge of the

1 eligibility of the applicant for such classi-
2 fication and referral; and

3 (iii) the data holdings of the depart-
4 ment or agency and other cooperating
5 interagency partners, including biographic
6 and biometric records, iris scans, finger-
7 prints, voice biometric information, hand
8 geometry biometrics, other identifiable in-
9 formation, and any other information re-
10 lated to the applicant, including relevant
11 derogatory information; and

12 (B)(i) in a case in which the head of the
13 department or agency determines that the ap-
14 plicant is an Afghan ally without significant de-
15 rogatory information, refer the Afghan ally to
16 the United States Refugee Admissions Program
17 as a refugee; and

18 (ii) include with such referral—

19 (I) any service record concerned,
20 if available;

21 (II) if the applicant provides a
22 service record, any information that
23 helps verify the service record con-
24 cerned; and

1 (III) any biometrics for the appli-
2 cant.

3 (4) REVIEW PROCESS FOR DENIAL OF REQUEST
4 FOR REFERRAL.—

5 (A) IN GENERAL.—In the case of an appli-
6 cant with respect to whom the head of the ap-
7 propriate department or agency denies a re-
8 quest for classification and referral based on a
9 determination that the applicant is not an Af-
10 ghan ally or based on derogatory information—

11 (i) the head of the department or
12 agency shall provide the applicant with a
13 written notice of the denial that provides,
14 to the maximum extent practicable, a de-
15 scription of the basis for the denial, includ-
16 ing the facts and inferences, or evidentiary
17 gaps, underlying the individual determina-
18 tion; and

19 (ii) the applicant shall be provided an
20 opportunity to submit not more than 1
21 written appeal to the head of the depart-
22 ment or agency for each such denial.

23 (B) DEADLINE FOR APPEAL.—An appeal
24 under clause (ii) of subparagraph (A) shall be
25 submitted—

1 (i) not more than 120 days after the
2 date on which the applicant concerned re-
3 ceives notice under clause (i) of that sub-
4 paragraph; or

5 (ii) on any date thereafter, at the dis-
6 cretion of the head of the appropriate de-
7 partment or agency.

8 (C) REQUEST TO REOPEN.—

9 (i) IN GENERAL.—An applicant who
10 receives a denial under subparagraph (A)
11 may submit a request to reopen a request
12 for classification and referral under the
13 process established under paragraph (1) so
14 that the applicant may provide additional
15 information, clarify existing information,
16 or explain any unfavorable information.

17 (ii) LIMITATION.—After considering 1
18 such request to reopen from an applicant,
19 the head of the appropriate department or
20 agency may deny subsequent requests to
21 reopen submitted by the same applicant.

22 (5) FORM AND CONTENT OF REFERRAL.—To
23 the extent practicable, the head of the appropriate
24 department or agency shall ensure that referrals
25 made under this subsection—

1 (A) conform to requirements established by
2 the Secretary of State for form and content;
3 and

4 (B) are complete and include sufficient
5 contact information, supporting documentation,
6 and any other material the Secretary of State
7 or the Secretary consider necessary or helpful
8 in determining whether an applicant is entitled
9 to refugee status.

10 (6) TERMINATION.—The application process
11 and referral system under this subsection shall ter-
12minate upon the later of 1 year before the termi-
13nation of the designation under subsection (b)(1) or
14on the date of a joint determination by the Secretary
15of State and the Secretary of Defense, in consulta-
16tion with the Secretary, that such termination is in
17the national interest of the United States.

18 (d) GENERAL PROVISIONS.—

19 (1) PROHIBITION ON FEES.—The Secretary,
20 the Secretary of Defense, or the Secretary of State
21 may not charge any fee in connection with a request
22 for a classification and referral as a refugee under
23 this section.

24 (2) DEFENSE PERSONNEL.—Any limitation in
25 law with respect to the number of personnel within

1 the Office of the Secretary of Defense, the military
2 departments, or a Defense Agency (as defined in
3 section 101(a) of title 10, United States Code) shall
4 not apply to personnel employed for the primary
5 purpose of carrying out this section.

6 (3) REPRESENTATION.—An alien applying for
7 admission to the United States under this section
8 may be represented during the application process,
9 including at relevant interviews and examinations,
10 by an attorney or other accredited representative.
11 Such representation shall not be at the expense of
12 the United States Government.

13 (4) PROTECTION OF ALIENS.—The Secretary of
14 State, in consultation with the head of any other ap-
15 propriate Federal agency, shall make a reasonable
16 effort to provide an alien who has been classified as
17 an Afghan ally and has been referred as a refugee
18 under this section protection or to immediately re-
19 move such alien from Afghanistan, if possible.

20 (5) OTHER ELIGIBILITY FOR IMMIGRANT STA-
21 TUS.—No alien shall be denied the opportunity to
22 apply for admission under this section solely because
23 the alien qualifies as an immediate relative or is eli-
24 gible for any other immigrant classification.

1 (6) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated such sums
3 as necessary for each of fiscal years 2024 through
4 2034 to carry out this section.

5 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
6 tion may be construed to inhibit the Secretary of State
7 from accepting refugee referrals from any entity.

8 **SEC. 3335. IMPROVING EFFICIENCY AND OVERSIGHT OF**
9 **REFUGEE AND SPECIAL IMMIGRANT PROC-**
10 **ESSING.**

11 (a) ACCEPTANCE OF FINGERPRINT CARDS AND SUB-
12 MISSIONS OF BIOMETRICS.—In addition to the methods
13 authorized under the heading relating to the Immigration
14 and Naturalization Service under title I of the Depart-
15 ments of Commerce, Justice, and State, the Judiciary, and
16 Related Agencies Appropriations Act of 1998 (Public Law
17 105–119, 111 Stat. 2448; 8 U.S.C. 1103 note), and other
18 applicable law, and subject to such safeguards as the Sec-
19 retary, in consultation with the Secretary of State or the
20 Secretary of Defense, as appropriate, shall prescribe to en-
21 sure the integrity of the biometric collection (which shall
22 include verification of identity by comparison of such fin-
23 gerprints with fingerprints taken by or under the direct
24 supervision of the Secretary prior to or at the time of the
25 individual’s application for admission to the United

1 States), the Secretary may, in the case of any application
2 for any benefit under the Immigration and Nationality Act
3 (8 U.S.C. 1101 et seq.), accept fingerprint cards or any
4 other submission of biometrics—

5 (1) prepared by international or nongovern-
6 mental organizations under an appropriate agree-
7 ment with the Secretary or the Secretary of State;

8 (2) prepared by employees or contractors of the
9 Department of Homeland Security or the Depart-
10 ment of State; or

11 (3) provided by an agency (as defined under
12 section 3502 of title 44, United States Code).

13 (b) STAFFING.—

14 (1) VETTING.—The Secretary of State, the Sec-
15 retary, the Secretary of Defense, and any other
16 agency authorized to carry out the vetting process
17 under this subtitle, shall each ensure sufficient staff-
18 ing, and request the resources necessary, to effi-
19 ciently and adequately carry out the vetting of appli-
20 cants for—

21 (A) referral to the United States Refugee
22 Admissions Program, consistent with the deter-
23 minations established under section 207 of the
24 Immigration and Nationality Act (8 U.S.C.
25 1157); and

1 (B) special immigrant status.

2 (2) REFUGEE RESETTLEMENT.—The Secretary
3 of Health and Human Services shall ensure suffi-
4 cient staffing to efficiently provide assistance under
5 chapter 2 of title IV of the Immigration and Nation-
6 ality Act (8 U.S.C. 1521 et seq.) to refugees reset-
7 tled in the United States.

8 (c) REMOTE PROCESSING.—Notwithstanding any
9 other provision of law, the Secretary of State and the Sec-
10 retary shall employ remote processing capabilities for ref-
11 ugee processing under section 207 of the Immigration and
12 Nationality Act (8 U.S.C. 1157), including secure digital
13 file transfers, videoconferencing and teleconferencing ca-
14 pabilities, remote review of applications, remote inter-
15 views, remote collection of signatures, waiver of the appli-
16 cant’s appearance or signature (other than a final appear-
17 ance and verification by the oath of the applicant prior
18 to or at the time of the individual’s application for admis-
19 sion to the United States), waiver of signature for individ-
20 uals under 5 years old, and any other capability the Sec-
21 retary of State and the Secretary consider appropriate, se-
22 cure, and likely to reduce processing wait times at par-
23 ticular facilities.

24 (d) MONTHLY ARRIVAL REPORTS.—With respect to
25 monthly reports issued by the Secretary of State relating

1 to United States Refugee Admissions Program arrivals,
2 the Secretary of State shall report—

3 (1) the number of monthly admissions of refu-
4 gees, disaggregated by priorities; and

5 (2) the number of Afghan allies admitted as
6 refugees.

7 (e) INTERAGENCY TASK FORCE ON AFGHAN ALLY
8 STRATEGY.—

9 (1) ESTABLISHMENT.—Not later than 180 days
10 after the date of the enactment of this Act, the
11 President shall establish an Interagency Task Force
12 on Afghan Ally Strategy (referred to in this section
13 as the “Task Force”)—

14 (A) to develop and oversee the implementa-
15 tion of the strategy and contingency plan de-
16 scribed in subparagraph (A)(i) of paragraph
17 (4); and

18 (B) to submit the report, and provide a
19 briefing on the report, as described in subpara-
20 graphs (A) and (B) of paragraph (4).

21 (2) MEMBERSHIP.—

22 (A) IN GENERAL.—The Task Force shall
23 include—

24 (i) 1 or more representatives from
25 each relevant Federal agency, as des-

1 shall submit a report to the appropriate
2 committees of Congress that includes—

3 (I) a strategy for facilitating the
4 resettlement of nationals of Afghani-
5 stan outside the United States who,
6 during the period beginning on Octo-
7 ber 1, 2001, and ending on September
8 1, 2021, directly and personally sup-
9 ported the United States mission in
10 Afghanistan, as determined by the
11 Secretary of State in consultation
12 with the Secretary of Defense; and

13 (II) a contingency plan for future
14 emergency operations in foreign coun-
15 tries involving foreign nationals who
16 have worked directly with the United
17 States Government, including the
18 Armed Forces of the United States
19 and United States intelligence agen-
20 cies.

21 (ii) ELEMENTS.—The report required
22 under clause (i) shall include—

23 (I) the total number of nationals
24 of Afghanistan who have pending

1 specified applications, disaggregated
2 by—

3 (aa) such nationals in Af-
4 ghanistan and such nationals in
5 a third country;

6 (bb) type of specified appli-
7 cation; and

8 (cc) applications that are
9 documentarily complete and ap-
10 plications that are not
11 documentarily complete;

12 (II) an estimate of the number of
13 nationals of Afghanistan who may be
14 eligible for special immigrant status;

15 (III) with respect to the strategy
16 required under subparagraph
17 (A)(i)(I)—

18 (aa) the estimated number
19 of nationals of Afghanistan de-
20 scribed in such subparagraph;

21 (bb) a description of the
22 process for safely resettling such
23 nationals of Afghanistan;

24 (cc) a plan for processing
25 such nationals of Afghanistan for

1 admission to the United States
2 that—

3 (AA) discusses the fea-
4 sibility of remote processing
5 for such nationals of Af-
6 ghanistan residing in Af-
7 ghanistan;

8 (BB) includes any
9 strategy for facilitating ref-
10 ugee and consular proc-
11 essing for such nationals of
12 Afghanistan in third coun-
13 tries, and the timelines for
14 such processing;

15 (CC) includes a plan
16 for conducting rigorous and
17 efficient vetting of all such
18 nationals of Afghanistan for
19 processing;

20 (DD) discusses the
21 availability and capacity of
22 sites in third countries to
23 process applications and
24 conduct any required vetting
25 for such nationals of Af-

1 ghanistan, including the po-
2 tential to establish addi-
3 tional sites; and

4 (EE) includes a plan
5 for providing updates and
6 necessary information to af-
7 fected individuals and rel-
8 evant nongovernmental or-
9 ganizations;

10 (dd) a description of consid-
11 erations, including resource con-
12 straints, security concerns, miss-
13 ing or inaccurate information,
14 and diplomatic considerations,
15 that limit the ability of the Sec-
16 retary of State or the Secretary
17 to increase the number of such
18 nationals of Afghanistan who can
19 be safely processed or resettled;

20 (ee) an identification of any
21 resource or additional authority
22 necessary to increase the number
23 of such nationals of Afghanistan
24 who can be processed or reset-
25 tled;

1 (ff) an estimate of the cost
2 to fully implement the strategy;
3 and

4 (gg) any other matter the
5 Task Force considers relevant to
6 the implementation of the strat-
7 egy;

8 (IV) with respect to the contin-
9 gency plan required by clause
10 (i)(II)—

11 (aa) a description of the
12 standard practices for screening
13 and vetting foreign nationals con-
14 sidered to be eligible for resettle-
15 ment in the United States, in-
16 cluding a strategy for vetting,
17 and maintaining the records of,
18 such foreign nationals who are
19 unable to provide identification
20 documents or biographic details
21 due to emergency circumstances;

22 (bb) a strategy for facili-
23 tating refugee or consular proc-
24 essing for such foreign nationals
25 in third countries;

1 (cc) clear guidance with re-
2 spect to which Federal agency
3 has the authority and responsi-
4 bility to coordinate Federal reset-
5 tlement efforts;

6 (dd) a description of any re-
7 source or additional authority
8 necessary to coordinate Federal
9 resettlement efforts, including
10 the need for a contingency fund;

11 (ee) any other matter the
12 Task Force considers relevant to
13 the implementation of the contin-
14 gency plan; and

15 (V) a strategy for the efficient
16 processing of all Afghan special immi-
17 grant visa applications and appeals,
18 including—

19 (aa) a review of current
20 staffing levels and needs across
21 all interagency offices and offi-
22 cials engaged in the special immi-
23 grant visa process;

24 (bb) an analysis of the ex-
25 pected Chief of Mission approvals

1 and denials of applications in the
2 pipeline in order to project the
3 expected number of visas nec-
4 essary to provide special immi-
5 grant status to all approved ap-
6 plicants under this subtitle dur-
7 ing the several years after the
8 date of the enactment of this
9 Act;

10 (cc) an assessment as to
11 whether adequate guidelines exist
12 for reconsidering or reopening
13 applications for special immi-
14 grant visas in appropriate cir-
15 cumstances and consistent with
16 applicable laws; and

17 (dd) an assessment of the
18 procedures throughout the special
19 immigrant visa application proc-
20 ess, including at the Portsmouth
21 Consular Center, and the effec-
22 tiveness of communication be-
23 tween the Portsmouth Consular
24 Center and applicants, including
25 an identification of any area in

1 which improvements to the effi-
2 ciency of such procedures and
3 communication may be made.

4 (iii) FORM.—The report required
5 under clause (i) shall be submitted in un-
6 classified form but may include a classified
7 annex.

8 (B) BRIEFING.—Not later than 60 days
9 after submitting the report required by clause
10 (i), the Task Force shall brief the appropriate
11 committees of Congress on the contents of the
12 report.

13 (5) TERMINATION.—The Task Force shall re-
14 main in effect until the later of—

15 (A) the date on which the strategy re-
16 quired under paragraph (4)(A)(i)(I) has been
17 fully implemented;

18 (B) the date of a determination by the
19 Secretary of State, in consultation with the Sec-
20 retary of Defense and the Secretary, that a task
21 force is no longer necessary for the implementa-
22 tion of subparagraphs (A) and (B) of para-
23 graph (1); or

24 (C) the date that is 10 years after the date
25 of the enactment of this Act.

1 (f) IMPROVING CONSULTATION WITH CONGRESS.—
2 Section 207 of the Immigration and Nationality Act (8
3 U.S.C. 1157) is amended—

4 (1) in subsection (a), by amending paragraph
5 (4) to read as follows:

6 “(4)(A) In the determination made under this sub-
7 section for each fiscal year (beginning with fiscal year
8 1992), the President shall enumerate, with the respective
9 number of refugees so determined, the number of aliens
10 who were granted asylum in the previous year.

11 “(B) In making a determination under paragraph
12 (1), the President shall consider the information in the
13 most recently published projected global resettlement
14 needs report published by the United Nations High Com-
15 missioner for Refugees.”;

16 (2) in subsection (e), by amending paragraph
17 (2) to read as follows:

18 “(2) A description of the number and allocation
19 of the refugees to be admitted, including the ex-
20 pected allocation by region, and an analysis of the
21 conditions within the countries from which they
22 came.”; and

23 (3) by adding at the end the following—

24 “(g) QUARTERLY REPORTS ON ADMISSIONS.—Not
25 later than 30 days after the last day of each quarter begin-

1 ning the fourth quarter of fiscal year 2024, the President
2 shall submit to the Committee on Homeland Security and
3 Governmental Affairs, the Committee on the Judiciary,
4 and the Committee on Foreign Relations of the Senate
5 and the Committee on Homeland Security, the Committee
6 on the Judiciary, and the Committee on Foreign Affairs
7 of the House of Representatives a report that includes the
8 following:

9 “(1) REFUGEES ADMITTED.—

10 “(A) The number of refugees admitted to
11 the United States during the preceding quarter.

12 “(B) The cumulative number of refugees
13 admitted to the United States during the appli-
14 cable fiscal year, as of the last day of the pre-
15 ceding quarter.

16 “(C) The number of refugees expected to
17 be admitted to the United States during the re-
18 mainder of the applicable fiscal year.

19 “(D) The number of refugees from each
20 region admitted to the United States during the
21 preceding quarter.

22 “(2) ALIENS WITH PENDING SECURITY
23 CHECKS.—With respect only to aliens processed
24 under section 101(a)(27)(N), subtitle C of title III
25 of the Border Act, or section 602(b)(2)(A)(ii)(II) of

1 the Afghan Allies Protection Act of 2009 (8 U.S.C.
2 1101 note; Public Law 111–8)—

3 “(A) the number of aliens, by nationality,
4 security check, and responsible vetting agency,
5 for whom a National Vetting Center or other
6 security check has been requested during the
7 preceding quarter, and the number of aliens, by
8 nationality, for whom the check was pending
9 beyond 30 days; and

10 “(B) the number of aliens, by nationality,
11 security check, and responsible vetting agency,
12 for whom a National Vetting Center or other
13 security check has been pending for more than
14 180 days.

15 “(3) CIRCUIT RIDES.—

16 “(A) For the preceding quarter—

17 “(i) the number of Refugee Corps of-
18 ficers deployed on circuit rides and the
19 overall number of Refugee Corps officers;

20 “(ii) the number of individuals inter-
21 viewed—

22 “(I) on each circuit ride; and

23 “(II) at each circuit ride location;

24 “(iii) the number of circuit rides; and

1 “(iv) for each circuit ride, the dura-
2 tion of the circuit ride.

3 “(B) For the subsequent 2 quarters, the
4 number of circuit rides planned.

5 “(4) PROCESSING.—

6 “(A) For refugees admitted to the United
7 States during the preceding quarter, the aver-
8 age number of days between—

9 “(i) the date on which an individual
10 referred to the United States Government
11 as a refugee applicant is interviewed by the
12 Secretary of Homeland Security; and

13 “(ii) the date on which such individual
14 is admitted to the United States.

15 “(B) For refugee applicants interviewed by
16 the Secretary of Homeland Security in the pre-
17 ceding quarter, the approval, denial, rec-
18 ommended approval, recommended denial, and
19 hold rates for the applications for admission of
20 such individuals, disaggregated by nationality.”.

1 **SEC. 3336. SUPPORT FOR CERTAIN VULNERABLE AFGHANS**
2 **RELATING TO EMPLOYMENT BY OR ON BE-**
3 **HALF OF THE UNITED STATES.**

4 (a) SPECIAL IMMIGRANT VISAS FOR CERTAIN REL-
5 ATIVES OF CERTAIN MEMBERS OF THE ARMED
6 FORCES.—

7 (1) IN GENERAL.—Section 101(a)(27) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1101(a)(27)) is amended—

10 (A) in subparagraph (L)(iii), by adding a
11 semicolon at the end;

12 (B) in subparagraph (M), by striking the
13 period at the end and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(N) a citizen or national of Afghanistan
16 who is the parent or brother or sister of—

17 “(i) a member of the armed forces (as
18 defined in section 101(a) of title 10,
19 United States Code); or

20 “(ii) a veteran (as defined in section
21 101 of title 38, United States Code).”.

22 (2) NUMERICAL LIMITATIONS.—

23 (A) IN GENERAL.—Subject to subpara-
24 graph (C), the total number of principal aliens
25 who may be provided special immigrant visas
26 under subparagraph (N) of section 101(a)(27)

1 of the Immigration and Nationality Act (8
2 U.S.C. 1101(a)(27)), as added by paragraph
3 (1), may not exceed 2,500 each fiscal year.

4 (B) CARRYOVER.—If the numerical limita-
5 tion specified in subparagraph (A) is not
6 reached during a given fiscal year, the numer-
7 ical limitation specified in such subparagraph
8 for the following fiscal year shall be increased
9 by a number equal to the difference between—

10 (i) the numerical limitation specified
11 in subparagraph (A) for the given fiscal
12 year; and

13 (ii) the number of principal aliens pro-
14 vided special immigrant visas under sub-
15 subparagraph (N) of section 101(a)(27) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1101(a)(27)) during the given fiscal year.

18 (C) MAXIMUM NUMBER OF VISAS.—The
19 total number of aliens who may be provided
20 special immigrant visas under subparagraph
21 (N) of section 101(a)(27) of the Immigration
22 and Nationality Act (8 U.S.C. 1101(a)(27))
23 shall not exceed 10,000.

24 (D) DURATION OF AUTHORITY.—The au-
25 thority to issue visas under subparagraph (N)

1 of section 101(a)(27) of the Immigration and
2 Nationality Act (8 U.S.C. 1101(a)(27)) shall—

3 (i) commence on the date of the en-
4 actment of this Act; and

5 (ii) terminate on the date on which all
6 such visas are exhausted.

7 (b) CERTAIN AFGHANS INJURED OR KILLED IN THE
8 COURSE OF EMPLOYMENT.—Section 602(b) of the Af-
9 ghan Allies Protection Act of 2009 (8 U.S.C. 1101 note;
10 Public Law 111–8) is amended—

11 (1) in paragraph (2)(A)—

12 (A) by amending clause (ii) to read as fol-
13 lows:

14 “(ii)(I) was or is employed in Afghan-
15 istan on or after October 7, 2001, for not
16 less than 1 year—

17 “(aa) by, or on behalf of, the
18 United States Government; or

19 “(bb) by the International Secu-
20 rity Assistance Force (or any suc-
21 cessor name for such Force) in a ca-
22 pacity that required the alien—

23 “(AA) while traveling off-
24 base with United States military
25 personnel stationed at the Inter-

1 national Security Assistance
2 Force (or any successor name for
3 such Force), to serve as an inter-
4 preter or translator for such
5 United States military personnel;
6 or

7 “(BB) to perform activities
8 for the United States military
9 personnel stationed at Inter-
10 national Security Assistance
11 Force (or any successor name for
12 such Force); or

13 “(II) in the case of an alien who was
14 wounded or seriously injured in connection
15 with employment described in subclause
16 (I), was employed for any period until the
17 date on which such wound or injury oc-
18 curred, if the wound or injury prevented
19 the alien from continuing such employ-
20 ment;”; and

21 (B) in clause (iii), by striking “clause (ii)”
22 and inserting “clause (ii)(I)”;

23 (2) in paragraph (13)(A)(i), by striking “sub-
24 clause (I) or (II)(bb) of paragraph (2)(A)(ii)” and

1 inserting “item (aa) or (bb)(BB) of paragraph
2 (2)(A)(ii)(I)”;

3 (3) in paragraph (14)(C), by striking “para-
4 graph (2)(A)(ii)” and inserting “paragraph
5 (2)(A)(ii)(I)”;

6 (4) in paragraph (15), by striking “paragraph
7 (2)(A)(ii)” and inserting “paragraph (2)(A)(ii)(I)”.

8 (c) EXTENSION OF SPECIAL IMMIGRANT VISA PRO-
9 GRAM UNDER AFGHAN ALLIES PROTECTION ACT OF
10 2009.—Section 602(b) of the Afghan Allies Protection Act
11 of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is
12 amended—

13 (1) in paragraph (3)(F)—

14 (A) in the subparagraph heading, by strik-
15 ing “FISCAL YEARS 2015 THROUGH 2022” and
16 inserting “FISCAL YEARS 2015 THROUGH 2029”;
17 and

18 (B) in clause (i), by striking “December
19 31, 2024” and inserting “December 31, 2029”;
20 and

21 (C) in clause (ii), by striking “December
22 31, 2024” and inserting “December 31, 2029”;
23 and

1 (2) in paragraph (13), in the matter preceding
2 subparagraph (A), by striking “January 31, 2024”
3 and inserting “January 31, 2030”.

4 (d) AUTHORIZATION OF VIRTUAL INTERVIEWS.—
5 Section 602(b)(4) of the Afghan Allies Protection Act of
6 2009 (8 U.S.C. 1101 note; Public Law 111–8;) is amend-
7 ed by adding at the end the following:

8 “(D) VIRTUAL INTERVIEWS.—Notwith-
9 standing section 222(e) of the Immigration and
10 Nationality Act (8 U.S.C. 1202(e)), an applica-
11 tion for an immigrant visa under this section
12 may be signed by the applicant through a vir-
13 tual video meeting before a consular officer and
14 verified by the oath of the applicant adminis-
15 tered by the consular officer during a virtual
16 video meeting.”.

17 (e) QUARTERLY REPORTS.—Paragraph (12) of sec-
18 tion 602(b) of the Afghan Allies Protection Act of 2009
19 (8 U.S.C. 1101 note; Public Law 111–8) is amended is
20 amended to read as follows:

21 “(12) QUARTERLY REPORTS.—

22 “(A) REPORT TO CONGRESS.—Not later
23 than 120 days after the date of enactment of
24 the Border Act and every 90 days thereafter,
25 the Secretary of State and the Secretary of

1 Homeland Security, in consultation with the
2 Secretary of Defense, shall submit to the appro-
3 priate committees of Congress a report that in-
4 cludes the following:

5 “(i) For the preceding quarter—

6 “(I) a description of improve-
7 ments made to the processing of spe-
8 cial immigrant visas and refugee proc-
9 essing for citizens and nationals of Af-
10 ghanistan;

11 “(II) the number of new Afghan
12 referrals to the United States Refugee
13 Admissions Program, disaggregated
14 by referring entity;

15 “(III) the number of interviews
16 of Afghans conducted by U.S. Citizen-
17 ship and Immigration Services,
18 disaggregated by the country in which
19 such interviews took place;

20 “(IV) the number of approvals
21 and the number of denials of refugee
22 status requests for Afghans;

23 “(V) the number of total admis-
24 sions to the United States of Afghan
25 refugees;

1 “(VI) number of such admis-
2 sions, disaggregated by whether the
3 refugees come from within, or outside
4 of, Afghanistan;

5 “(VII) the average processing
6 time for citizens and nationals of Af-
7 ghanistan who are applicants for re-
8 ferral under section 3334 of the Bor-
9 der Act;

10 “(VIII) the number of such cases
11 processed within such average proe-
12 essing time; and

13 “(IX) the number of denials
14 issued with respect to applications by
15 citizens and nationals of Afghanistan
16 for referrals under section 3334 of the
17 Border Act.

18 “(ii) The number of applications by
19 citizens and nationals of Afghanistan for
20 refugee referrals pending as of the date of
21 submission of the report.

22 “(iii) A description of the efficiency
23 improvements made in the process by
24 which applications for special immigrant
25 visas under this subsection are processed,

1 including information described in clauses
2 (iii) through (viii) of paragraph (11)(B).

3 “(B) FORM OF REPORT.—Each report re-
4 quired by subparagraph (A) shall be submitted
5 in unclassified form but may contain a classi-
6 fied annex.

7 “(C) PUBLIC POSTING.—The Secretary of
8 State shall publish on the website of the De-
9 partment of State the unclassified portion of
10 each report submitted under subparagraph
11 (A).”.

12 (f) GENERAL PROVISIONS.—

13 (1) PROHIBITION ON FEES.—The Secretary,
14 the Secretary of Defense, or the Secretary of State
15 may not charge any fee in connection with an appli-
16 cation for, or issuance of, a special immigrant visa
17 or special immigrant status under—

18 (A) section 602 of the Afghan Allies Pro-
19 tection Act of 2009 (8 U.S.C. 1101 note; Public
20 Law 111–8);

21 (B) section 1059 of the National Defense
22 Authorization Act for Fiscal Year 2006 (8
23 U.S.C. 1101 note; Public Law 109–163); or

24 (C) subparagraph (N) of section
25 101(a)(27) of the Immigration and Nationality

1 Act (8 U.S.C. 1101(a)(27)), as added by sub-
2 section (a)(1).

3 (2) DEFENSE PERSONNEL.—Any limitation in
4 law with respect to the number of personnel within
5 the Office of the Secretary of Defense, the military
6 departments, or a Defense Agency (as defined in
7 section 101(a) of title 10, United States Code) shall
8 not apply to personnel employed for the primary
9 purpose of carrying out this section.

10 (3) PROTECTION OF ALIENS.—The Secretary of
11 State, in consultation with the head of any other ap-
12 propriate Federal agency, shall make a reasonable
13 effort to provide an alien who is seeking status as
14 a special immigrant under subparagraph (N) of sec-
15 tion 101(a)(27) of the Immigration and Nationality
16 Act (8 U.S.C. 1101(a)(27)), as added by subsection
17 (a)(1), protection or to immediately remove such
18 alien from Afghanistan, if possible.

19 (4) RESETTLEMENT SUPPORT.—A citizen or
20 national of Afghanistan who is admitted to the
21 United States under this section or an amendment
22 made by this section shall be eligible for resettlement
23 assistance, entitlement programs, and other benefits
24 available to refugees admitted under section 207 of
25 the Immigration and Nationality Act (8 U.S.C.

1 1157) to the same extent, and for the same periods
2 of time, as such refugees.

3 **SEC. 3337. SUPPORT FOR ALLIES SEEKING RESETTLEMENT**
4 **IN THE UNITED STATES.**

5 Notwithstanding any other provision of law, during
6 the period beginning on the date of the enactment of this
7 Act and ending on the date that is 10 years thereafter,
8 the Secretary and the Secretary of State may waive any
9 fee or surcharge or exempt individuals from the payment
10 of any fee or surcharge collected by the Department of
11 Homeland Security and the Department of State, respec-
12 tively, in connection with a petition or application for, or
13 issuance of, an immigrant visa to a national of Afghani-
14 stan under section 201(b)(2)(A)(i) or 203(a) of the Immi-
15 gration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)
16 and 1153(a)), respectively.

17 **SEC. 3338. REPORTING.**

18 (a) QUARTERLY REPORTS.—Beginning on January
19 1, 2028, not less frequently than quarterly, the Secretary
20 shall submit to the Committee on the Judiciary of the Sen-
21 ate and the Committee on the Judiciary of the House of
22 Representatives a report that includes, for the preceding
23 quarter—

24 (1) the number of individuals granted condi-
25 tional permanent resident status under section 3333,

1 disaggregated by the number of such individuals for
2 whom conditions have been removed;

3 (2) the number of individuals granted condi-
4 tional permanent resident status under section 3333
5 who have been determined to be ineligible for re-
6 moval of conditions (and the reasons for such deter-
7 mination); and

8 (3) the number of individuals granted condi-
9 tional permanent resident status under section 3333
10 for whom no such determination has been made
11 (and the reasons for the lack of such determination).

12 (b) ANNUAL REPORTS.—Not less frequently than an-
13 nually, the Secretary, in consultation with the Attorney
14 General, shall submit to the appropriate committees of
15 Congress a report that includes for the preceding year,
16 with respect to individuals granted conditional permanent
17 resident status under section 3333—

18 (1) the number of such individuals who are
19 placed in removal proceedings under section 240 of
20 the Immigration and Nationality Act (8 U.S.C.
21 1229a) charged with a ground of deportability under
22 subsection (a)(2) of section 237 of that Act (8
23 U.S.C. 1227), disaggregated by each applicable
24 ground under that subsection;

1 (2) the number of such individuals who are
2 placed in removal proceedings under section 240 of
3 the Immigration and Nationality Act (8 U.S.C.
4 1229a) charged with a ground of deportability under
5 subsection (a)(3) of section 237 of that Act (8
6 U.S.C. 1227), disaggregated by each applicable
7 ground under that subsection;

8 (3) the number of final orders of removal issued
9 pursuant to proceedings described in paragraphs (1)
10 and (2), disaggregated by each applicable ground of
11 deportability;

12 (4) the number of such individuals for whom
13 such proceedings are pending, disaggregated by each
14 applicable ground of deportability; and

15 (5) a review of the available options for removal
16 from the United States, including any changes in
17 the feasibility of such options during the preceding
18 year.

1 **TITLE IV—PROMOTING LEGAL**
2 **IMMIGRATION**

3 **SEC. 3401. EMPLOYMENT AUTHORIZATION FOR FIANCÉS,**
4 **FIANCÉES, SPOUSES, AND CHILDREN OF**
5 **UNITED STATES CITIZENS AND SPECIALTY**
6 **WORKERS.**

7 Section 214(c) of the Immigration and Nationality
8 Act (8 U.S.C. 1184(c)) is amended by adding at the end
9 the following:

10 “(15) The Secretary of Homeland Security shall au-
11 thorize an alien fiancé, fiancée, or spouse admitted pursu-
12 ant to clause (i) or (ii) of section 101(a)(15)(K), or any
13 child admitted pursuant to section 101(a)(15)(K)(iii) to
14 engage in employment in the United States incident to
15 such status and shall provide the alien with an ‘employ-
16 ment authorized’ endorsement during the period of au-
17 thorized admission.

18 “(16) Upon the receipt of a completed petition de-
19 scribed in subparagraph (E) or (F) of section 204(a)(1)
20 for a principal alien who has been admitted pursuant to
21 section 101(a)(15)(H)(i)(b), the Secretary of Homeland
22 Security shall authorize the alien spouse or child of such
23 principal alien who has been admitted under section
24 101(a)(15)(H) to accompany or follow to join a principal
25 alien admitted under such section, to engage in employ-

1 ment in the United States incident to such status and
2 shall provide the alien with an ‘employment authorized’
3 endorsement during the period of authorized admission.”.

4 **SEC. 3402. ADDITIONAL VISAS.**

5 Section 201 of the Immigration and Nationality Act
6 (8 U.S.C. 1151) is amended—

7 (1) in subsection (c)—

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

9 “(6)(A) For fiscal years 2025, 2026, 2027, 2028, and
10 2029—

11 “(i) 512,000 shall be substituted for 480,000 in
12 paragraph (1)(A)(i); and

13 “(ii) 258,000 shall be substituted for 226,000
14 in paragraph (1)(B)(i)(i) of that paragraph.

15 “(B) The additional visas authorized under subpara-
16 graph (A)—

17 “(i) shall be issued each fiscal year;

18 “(ii) shall remain available in any fiscal year
19 until issued; and

20 “(iii) shall be allocated in accordance with sec-
21 tions 201, 202, and 203.”; and

22 (2) in subsection (d), by adding at the end the
23 following:

1 “(3)(A) For fiscal years 2025, 2026, 2027, 2028, and
2 2029, 158,000 shall be substituted for 140,000 in para-
3 graph (1)(A).

4 “(B) The additional visas authorized under subpara-
5 graph (A)—

6 “(i) shall be issued each fiscal year;

7 “(ii) shall remain available in any fiscal year
8 until issued; and

9 “(iii) shall be allocated in accordance with sec-
10 tions 201, 202, and 203.”.

11 **SEC. 3403. CHILDREN OF LONG-TERM VISA HOLDERS.**

12 (a) MAINTAINING FAMILY UNITY FOR CHILDREN OF
13 LONG-TERM H-1B NONIMMIGRANTS AFFECTED BY
14 DELAYS IN VISA AVAILABILITY.—Section 203(h) of the
15 Immigration and Nationality Act (8 U.S.C. 1153(h)) is
16 amended by adding at the end the following:

17 “(6) CHILD STATUS DETERMINATION FOR CER-
18 TAIN DEPENDENT CHILDREN OF H-1B NON-
19 IMMIGRANTS.—

20 “(A) DETERMINATIVE FACTORS.—For
21 purposes of subsection (d), the determination of
22 whether an alien described in subparagraph (B)
23 satisfies the age and marital status require-
24 ments set forth in section 101(b)(1) shall be
25 made using the alien’s age and marital status

1 on the date on which an initial petition as a
2 nonimmigrant described in section
3 101(a)(15)(H)(i)(b) was filed on behalf of the
4 alien's parent, if such petition was approved.

5 “(B) ALIEN DESCRIBED.—An alien is de-
6 scribed in this subparagraph if such alien—

7 “(i) maintained, for an aggregate pe-
8 riod of at least 8 years before reaching 21
9 years of age, the status of a dependent
10 child of a nonimmigrant described in sec-
11 tion 101(a)(15)(H)(i)(b) pursuant to a
12 lawful admission; and

13 “(ii)(I) sought to acquire the status of
14 an alien lawfully admitted for permanent
15 residence during the 2-year period begin-
16 ning on the date on which an immigrant
17 visa became available to such alien; or

18 “(II) demonstrates, by clear and con-
19 vincing evidence, that the alien's failure to
20 seek such status during such 2-year period
21 was due to extraordinary circumstances.”.

22 (b) NONIMMIGRANT DEPENDENT CHILDREN OF H-
23 1B NONIMMIGRANTS.—Section 214 of the Immigration
24 and Nationality Act (8 U.S.C. 1184) is amended by add-
25 ing at the end the following:

1 “(s) CHILD DERIVATIVE BENEFICIARIES OF H-1B
2 NONIMMIGRANTS.—

3 “(1) AGE DETERMINATION.—In the case of an
4 alien who maintained, for an aggregate period of at
5 least 8 years before reaching 21 years of age, the
6 status of a dependent child of a nonimmigrant de-
7 scribed in section 101(a)(15)(H)(i)(b) pursuant to a
8 lawful admission, such alien’s age shall be deter-
9 mined based on the date on which an initial petition
10 for classification under such section was filed on be-
11 half of the alien’s parent, if such petition is ap-
12 proved.

13 “(2) LONG-TERM DEPENDENTS.—Notwith-
14 standing the alien’s actual age or marital status, an
15 alien who is determined to be a child under para-
16 graph (1) and is otherwise eligible may change sta-
17 tus to, or extend status as, a dependent child of a
18 nonimmigrant described in section
19 101(a)(15)(H)(i)(b) if the alien’s parent—

20 “(A) maintains lawful status under such
21 section;

22 “(B) has an employment-based immigrant
23 visa petition that has been approved pursuant
24 to section 203(b); and

1 “(C) has not yet had an opportunity to
2 seek an immigrant visa or adjust status under
3 section 245.

4 “(3) EMPLOYMENT AUTHORIZATION.—An alien
5 who is determined to be a child under paragraph (1)
6 is authorized to engage in employment in the United
7 States incident to the status of his or her non-
8 immigrant parent.

9 “(4) SURVIVING RELATIVE CONSIDERATION.—
10 Notwithstanding the death of the qualifying relative,
11 an alien who is determined to be a child under para-
12 graph (1) is authorized to extend status as a de-
13 pendent child of a nonimmigrant described in section
14 101(a)(15)(H)(i)(b).”.

15 (c) MOTION TO REOPEN OR RECONSIDER.—

16 (1) IN GENERAL.—A motion to reopen or re-
17 consider the denial of a petition under section 204
18 of the Immigration and Nationality Act (8 U.S.C.
19 1154) and a subsequent application for an immi-
20 grant visa or adjustment of status under section 245
21 of the Immigration and Nationality Act (8 U.S.C.
22 1255), may be granted if—

23 (A) such petition or application would have
24 been approved if—

1 (i) section 203(h)(6) of the Immigra-
2 tion and Nationality Act, as added by sub-
3 section (a), had been in effect when the pe-
4 tition or application was adjudicated; and

5 (ii) the person concerned remains eli-
6 gible for the requested benefit;

7 (B) the individual seeking relief pursuant
8 to such motion was in the United States at the
9 time the underlying petition or application was
10 filed; and

11 (C) such motion is filed with the Secretary
12 or the Attorney General not later than the date
13 that is 2 years after the date of the enactment
14 of this Act.

15 (2) PROTECTION FROM REMOVAL.—Notwith-
16 standing any other provision of the law, the Attor-
17 ney General and the Secretary—

18 (A) may not initiate removal proceedings
19 against or remove any alien who has a pending
20 nonfrivolous motion under paragraph (1) or is
21 seeking to file such a motion unless—

22 (i) the alien is a danger to the com-
23 munity or a national security risk; or

1 (ii) initiating a removal proceeding
2 with respect to such alien is in the public
3 interest; and

4 (B) shall provide aliens with a reasonable
5 opportunity to file such a motion.

6 (3) EMPLOYMENT AUTHORIZATION.—An alien
7 with a pending, nonfrivolous motion under this sub-
8 section shall be authorized to engage in employment
9 through the date on which a final administrative de-
10 cision regarding such motion has been made.

11 **SEC. 3404. MILITARY NATURALIZATION MODERNIZATION.**

12 (a) IN GENERAL.—Chapter 2 of title III of the Immi-
13 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
14 amended—

15 (1) by striking section 328 (8 U.S.C. 1439);

16 and

17 (2) in section 329 (8 U.S.C. 1440)—

18 (A) by amending the section heading to
19 read as follows: “**NATURALIZATION**
20 **THROUGH SERVICE IN THE SELECTED RE-**
21 **SERVE OR IN ACTIVE-DUTY STATUS.—**”;

22 (B) in subsection (a)—

23 (i) in the matter preceding paragraph
24 (1), by striking “during either” and all
25 that follows through “foreign force”;

1 (ii) in paragraph (1)—

2 (I) by striking “America Samoa,
3 or Swains Island” and inserting
4 “American Samoa, Swains Island, or
5 any of the freely associated States (as
6 defined in section 611(b)(1)(C) of the
7 Individuals with Disabilities Edu-
8 cation Act (20 U.S.C.
9 1411(b)(1)(C)),”; and

10 (II) by striking “he” and insert-
11 ing “such person”; and

12 (iii) in paragraph (2), by striking “in
13 an active-duty status, and whether separa-
14 tion from such service was under honorable
15 conditions” and inserting “in accordance
16 with subsection (b)(3)”; and

17 (C) in subsection (b)—

18 (i) in paragraph (1), by striking “he”
19 and inserting “such person”; and

20 (ii) in paragraph (3), by striking “an
21 active-duty status” and all that follows
22 through “foreign force, and” and inserting
23 “in an active status (as defined in section
24 101(d) of title 10, United States Code), in
25 the Selected Reserve of the Ready Reserve,

1 or on active duty (as defined in such sec-
2 tion) and, if separated”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Immigration and Nationality Act (8 U.S.C. 1101
5 et seq.) is amended by striking the items relating to sec-
6 tions 328 and 329 and inserting the following:

“Sec. 329. Naturalization through service in the Selected Reserve or in active-
duty status.”.

7 **SEC. 3405. TEMPORARY FAMILY VISITS.**

8 (a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA
9 SUBCATEGORY.—Section 101(a)(15)(B) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is
11 amended by striking “temporarily for business or tempo-
12 rarily for pleasure;” and inserting “temporarily for—

13 “(i) business;

14 “(ii) pleasure; or

15 “(iii) family purposes;”.

16 (b) REQUIREMENTS APPLICABLE TO FAMILY PUR-
17 POSES VISAS.—Section 214 of the Immigration and Na-
18 tionality Act (8 U.S.C. 1184), as amended by section
19 3403(b), is further amended by adding at the end the fol-
20 lowing:

21 “(t) REQUIREMENTS APPLICABLE TO FAMILY PUR-
22 POSES VISAS.—

23 “(1) DEFINED TERM.—In this subsection and
24 in section 101(a)(15)(B)(iii), the term ‘family pur-

1 poses' means any visit by a relative for a social, oc-
2 casional, major life, or religious event, or for any
3 other purpose.

4 “(2) FAMILY PURPOSES VISA.—Except as pro-
5 vided in paragraph (3), family travel for pleasure is
6 authorized pursuant to the policies, terms, and con-
7 ditions in effect on the day before the date of the
8 enactment of the Border Act.

9 “(3) SPECIAL RULES FOR FAMILY PURPOSES
10 VISAS FOR ALIENS AWAITING IMMIGRANT VISAS.—

11 “(A) NOTIFICATION OF APPROVED PETI-
12 TION.—A visa may not be issued to a relative
13 under section 101(a)(15)(B)(iii) until after the
14 consular officer is notified that the Secretary of
15 Homeland Security has approved a petition
16 filed in the United States by a family member
17 of the relative who is a United States citizen or
18 lawful permanent resident.

19 “(B) PETITION.—A petition referred to in
20 subparagraph (A) shall—

21 “(i) be in such form and contain such
22 information as the Secretary may prescribe
23 by regulation; and

24 “(ii) shall include—

1 “(I) a declaration of financial
2 support, affirming that the petitioner
3 will provide financial support to the
4 relative for the duration of his or her
5 temporary stay in the United States;

6 “(II) evidence that the relative
7 has—

8 “(aa) obtained, for the dura-
9 tion of his or her stay in the
10 United States, a short-term trav-
11 el medical insurance policy; or

12 “(bb) an existing health in-
13 surance policy that provides cov-
14 erage for international medical
15 expenses; and

16 “(III) a declaration from the rel-
17 ative, under penalty of perjury, af-
18 firming the relative’s—

19 “(aa) intent to depart the
20 United States at the conclusion
21 of the relative’s period of author-
22 ized admission; and

23 “(bb) awareness of the pen-
24 alties for overstaying such period
25 of authorized admission.

1 “(4) PETITIONER ELIGIBILITY.—

2 “(A) IN GENERAL.—Absent extraordinary
3 circumstances, an individual may not petition
4 for the admission of a relative as a non-
5 immigrant described in section
6 101(a)(15)(B)(iii) if such individual previously
7 petitioned for the admission of such a relative
8 who—

9 “(i) was admitted to the United
10 States pursuant to a visa issued under
11 such section as a result of such petition;
12 and

13 “(ii) overstayed his or her period of
14 authorized admission.

15 “(B) PREVIOUS PETITIONERS.—

16 “(i) IN GENERAL.—An individual fil-
17 ing a declaration of financial support on
18 behalf of a relative seeking admission as a
19 nonimmigrant described in section
20 101(a)(15)(B)(iii) who has previously pro-
21 vided a declaration of financial support for
22 such a relative shall—

23 “(I) certify to the Secretary of
24 Homeland Security that the relative
25 whose admission the individual pre-

1 viously supported did not overstay his
2 or her period of authorized admission;
3 or

4 “(II) explain why the relative’s
5 overstay was due to extraordinary cir-
6 cumstances beyond the control of the
7 relative.

8 “(ii) CRIMINAL PENALTY FOR FALSE
9 STATEMENT.—A certification under clause
10 (i)(I) shall be subject to the requirements
11 under section 1001 of title 18, United
12 States Code.

13 “(C) WAIVER.—The Secretary of Home-
14 land Security may waive the application of sec-
15 tion 212(a)(9)(B) in the case of a non-
16 immigrant described in section
17 101(a)(15)(B)(iii) who overstayed his or her pe-
18 riod of authorized admission due to extraor-
19 dinary circumstances beyond the control of the
20 nonimmigrant.”.

21 (c) RESTRICTION ON CHANGE OF STATUS.—Section
22 248(a)(1) of the Immigration and Nationality Act (8
23 U.S.C. 1258(a)(1)) is amended by inserting “(B)(iii),”
24 after “subparagraph”.

1 (d) FAMILY PURPOSE VISA ELIGIBILITY WHILE
2 AWAITING IMMIGRANT VISA.—

3 (1) IN GENERAL.—Notwithstanding section
4 214(b) of the Immigration and Nationality Act (8
5 U.S.C. 1184(b)), a nonimmigrant described in sec-
6 tion 101(a)(15)(B)(iii) of such Act, as added by sub-
7 section (a), who has been classified as an immigrant
8 under section 201 of such Act (8 U.S.C. 1151) and
9 is awaiting the availability of an immigrant visa sub-
10 ject to the numerical limitations under section 203
11 of such Act (8 U.S.C. 1153) may be admitted pursu-
12 ant to a family purposes visa, in accordance with
13 section 214(t) of such Act, as added by subsection
14 (b), if the individual is otherwise eligible for admis-
15 sion.

16 (2) LIMITATION.—An alien admitted under sec-
17 tion 101(a)(15)(B)(iii) of the Immigration and Na-
18 tionality Act, pursuant to section 214(t)(3) of such
19 Act, as added by subsection (b), may not be consid-
20 ered to have been admitted to the United States for
21 purposes of section 245(a) of such Act (8 U.S.C.
22 1255(a)).

23 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
24 tion, or in the amendments made by this section, may be
25 construed as—

1 (1) limiting the authority of immigration offi-
2 cers to refuse to admit to the United States an ap-
3 plicant under section 101(a)(15)(B)(iii) of the Immig-
4 ration and Nationality Act, as added by subsection
5 (a), who fails to meet 1 or more of the criteria under
6 section 214(t) of such Act, as added by subsection
7 (b), or who is inadmissible under section 212(a) of
8 such Act (8 U.S.C. 1182(a)); or

9 (2) precluding the use of section
10 101(a)(15)(B)(ii) of the Immigration and Nation-
11 ality Act, as added by subsection (a), for family
12 travel for pleasure in accordance with the policies
13 and procedures in effect on the day before the date
14 of the enactment of this Act.

15 **TITLE V—SELF-SUFFICIENCY**
16 **AND DUE PROCESS**

17 **Subtitle A—Work Authorizations**

18 **SEC. 3501. WORK AUTHORIZATION.**

19 Section 208(d)(2) of the Immigration and Nationality
20 Act (8 U.S.C. 1158(d)(2)) is amended to read as follows:

21 “(2) EMPLOYMENT ELIGIBILITY.—Except as
22 provided in section 235C—

23 “(A) an applicant for asylum is not enti-
24 tled to employment authorization, but such au-

1 thorization may be provided by the Secretary of
2 Homeland Security by regulation; and

3 “(B) an applicant who is not otherwise eli-
4 gible for employment authorization may not be
5 granted employment authorization under this
6 section before the date that is 180 days after
7 the date on which the applicant files an applica-
8 tion for asylum.”.

9 **SEC. 3502. EMPLOYMENT ELIGIBILITY.**

10 (a) IN GENERAL.—Chapter 4 of title II of the Immi-
11 gration and Nationality Act (8 U.S.C. 1221 et seq.), as
12 amended by section 3141(a), is further amended by add-
13 ing at the end the following:

14 **“SEC. 235C. EMPLOYMENT ELIGIBILITY.**

15 “(a) EXPEDITED EMPLOYMENT ELIGIBILITY.—

16 “(1) IN GENERAL.—The Secretary of Homeland
17 Security shall authorize employment for any alien
18 who—

19 “(A)(i) is processed under the procedures
20 described in section 235(b)(1) and receives a
21 positive protection determination pursuant to
22 such procedures; or

23 “(ii)(I) is processed under the procedures
24 described in section 235B; and

1 “(II)(aa) receives a positive protection de-
2 termination and is subsequently referred under
3 section 235B(c)(2)(B)(i) for a protection merits
4 interview; or

5 “(bb) is referred under section 235B(f)(1)
6 for a protection merits interview; and

7 “(B) is released from the physical custody
8 of the Secretary of Homeland Security.

9 “(2) APPLICATION.—The Secretary of Home-
10 land Security shall grant employment authorization
11 to—

12 “(A) an alien described in paragraph
13 (1)(A)(i) immediately upon such alien’s release
14 from physical custody;

15 “(B) an alien described in paragraph
16 (1)(A)(ii)(II)(aa) at the time such alien receives
17 a positive protection determination or is re-
18 ferred for a protection merits interview; and

19 “(C) an alien described in paragraph
20 (1)(A)(ii)(II)(bb) on the date that is 30 days
21 after the date on which such alien files an ap-
22 plication pursuant to section 235B(f).

23 “(b) TERM.—Employment authorization under this
24 section—

1 “(1) shall be for an initial period of 2 years;

2 and

3 “(2) shall be renewable, as applicable—

4 “(A) for additional 2-year periods while
5 the alien is in protection merits removal pro-
6 ceedings, including while the outcome of the
7 protection merits interview is under administra-
8 tive or judicial review; or

9 “(B) until the date on which—

10 “(i) the alien receives a negative pro-
11 tection merits determination; or

12 “(ii) the alien otherwise receives em-
13 ployment authorization under any other
14 provision of this Act.

15 “(c) RULES OF CONSTRUCTION.—

16 “(1) DETENTION.—Nothing in this section may
17 be construed to expand or restrict the authority of
18 the Secretary of Homeland Security to detain or re-
19 lease from detention an alien, if such detention or
20 release from detention is authorized by law.

21 “(2) LIMITATION ON AUTHORITY.—The Sec-
22 retary of Homeland Security may not authorize for
23 employment in the United States an alien being
24 processed under section 235(b)(1) or 235B in any

1 tive language or in a language
2 the alien understands.

3 “(II) INFORMATION DE-
4 SCRIBED.—The information described
5 in this subclause is information relat-
6 ing to—

7 “(aa) the rights and obliga-
8 tions of the alien during a protec-
9 tion determination;

10 “(bb) the process by which a
11 protection determination is con-
12 ducted;

13 “(cc) the procedures to be
14 followed by the alien in a protec-
15 tion determination; and

16 “(dd) the possible con-
17 sequences of—

18 “(AA) not complying
19 with the obligations referred
20 to in item (aa); and

21 “(BB) not cooperating
22 with Federal authorities.

23 “(III) ACCESSIBILITY.—An alien
24 who has a limitation that renders the
25 alien unable to read written materials

1 provided under subclause (I) shall re-
2 ceive an interpretation of such mate-
3 rials in the alien's native language, to
4 the maximum extent practicable, or in
5 a language and format the alien un-
6 derstands.

7 “(IV) TIMING OF PROTECTION
8 DETERMINATION.—

9 “(aa) IN GENERAL.—The
10 protection determination of an
11 alien shall not occur earlier than
12 72 hours after the provision of
13 the information described in sub-
14 clauses (I) and (II).

15 “(bb) WAIVER.—An alien
16 may—

17 “(AA) waive the 72-
18 hour requirement under
19 item (aa) only if the alien
20 knowingly and voluntarily
21 does so, only in a written
22 format or in an alternative
23 record if the alien is unable
24 to write, and only after the
25 alien receives the informa-

1 tion required to be provided
2 under subclause (I); and

3 “(BB) consult with an
4 individual of the alien’s
5 choosing in accordance with
6 subclause (V) before waiving
7 such requirement.

8 “(V) CONSULTATION.—

9 “(aa) IN GENERAL.—An
10 alien who is eligible for a protec-
11 tion determination may consult
12 with one or more individuals of
13 the alien’s choosing before the
14 screening or interview, or any re-
15 view of such a screening or inter-
16 view, in accordance with regula-
17 tions prescribed by the Secretary
18 of Homeland Security.

19 “(bb) LIMITATION.—Con-
20 sultation described in item (aa)
21 shall be at no expense to the
22 Federal Government.

23 “(cc) PARTICIPATION IN
24 INTERVIEW.—An individual cho-
25 sen by the alien may participate

1 in the protection determination of
2 the alien conducted under this
3 subparagraph.

4 “(dd) ACCESS.—The Sec-
5 retary of Homeland Security
6 shall ensure that a detained alien
7 has effective access to the indi-
8 viduals chosen by the alien, which
9 may include physical access, tele-
10 phonic access, and access by elec-
11 tronic communication.

12 “(ee) INCLUSIONS.—Con-
13 sultations under this subclause
14 may include—

15 “(AA) consultation with
16 an individual authorized by
17 the Department of Justice
18 through the Recognition and
19 Accreditation Program; and

20 “(BB) consultation
21 with an attorney licensed
22 under applicable law.

23 “(ff) RULES OF CONSTRUC-
24 TION.—Nothing in this subclause
25 may be construed—

1 “(AA) to require the
2 Federal Government to pay
3 for any consultation author-
4 ized under item (aa);

5 “(BB) to invalidate or
6 limit the remedies, rights,
7 and procedures of any Fed-
8 eral law that provides pro-
9 tection for the rights of indi-
10 viduals with disabilities; or

11 “(CC) to contravene or
12 limit the obligations under
13 the Vienna Convention on
14 Consular Relations done at
15 Vienna April 24, 1963.”.

16 (b) CONFORMING AMENDMENT.—Section 238(a)(2)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1228(a)(2)) is amended by striking “make reasonable ef-
19 forts to ensure that the alien’s access to counsel” and in-
20 serting “ensure that the alien’s access to counsel, pursu-
21 ant to section 235(b)(1)(B)(iv),”.

1 **SEC. 3512. COUNSEL FOR CERTAIN UNACCOMPANIED**
2 **ALIEN CHILDREN.**

3 Section 235(c)(5) of the William Wilberforce Traf-
4 ficking Victims Protection Reauthorization Act of 2008 (8
5 U.S.C. 1232(c)(5)) is amended to read as follows:

6 “(5) ACCESS TO COUNSEL.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the Secretary of Health and
9 Human Services shall ensure, to the greatest
10 extent practicable and consistent with section
11 292 of the Immigration and Nationality Act (8
12 U.S.C. 1362), that all unaccompanied alien
13 children who are or have been in the custody of
14 the Secretary of Health and Human Services or
15 the Secretary of Homeland Security, and who
16 are not described in subsection (a)(2)(A), have
17 counsel to represent them in legal proceedings
18 or matters and protect them from mistreat-
19 ment, exploitation, and trafficking. To the
20 greatest extent practicable, the Secretary of
21 Health and Human Services shall make every
22 effort to utilize the services of pro bono counsel
23 who agree to provide representation to such
24 children without charge.

25 “(B) EXCEPTION FOR CERTAIN CHIL-
26 DREN.—

1 “(i) IN GENERAL.—An unaccom-
2 panied alien child who is 13 years of age
3 or younger, and who is placed in or re-
4 ferred to removal proceedings pursuant to
5 section 240 of the Immigration and Na-
6 tionality Act (8 U.S.C. 1229a), shall be
7 represented by counsel subject to clause
8 (v).

9 “(ii) AGE DETERMINATIONS.—The
10 Secretary of Health and Human Services
11 shall ensure that age determinations of un-
12 accompanied alien children are conducted
13 in accordance with the procedures devel-
14 oped pursuant to subsection (b)(4).

15 “(iii) APPEALS.—The rights and
16 privileges under this subparagraph—

17 “(I) shall not attach to—

18 “(aa) an unaccompanied
19 alien child after the date on
20 which—

21 “(AA) the removal pro-
22 ceedings of the child under
23 section 240 of the Immigra-
24 tion and Nationality Act (8
25 U.S.C. 1229a) terminate;

1 “(BB) an order of re-
2 moval with respect to the
3 child becomes final; or

4 “(CC) an immigration
5 benefit is granted to the
6 child; or

7 “(bb) an appeal to a district
8 court or court of appeals of the
9 United States, unless certified by
10 the Secretary as a case of ex-
11 traordinary importance; and

12 “(II) shall attach to administra-
13 tive reviews and appeals.

14 “(iv) IMPLEMENTATION.—Not later
15 than 90 days after the date of the enact-
16 ment of the Border Act, the Secretary of
17 Health and Human Services shall imple-
18 ment this subparagraph

19 “(v) REMEDIES.—

20 “(I) IN GENERAL.—For the pop-
21 ulation described in clause (i) of this
22 subparagraph and subsection (b)(1) of
23 section 292 of the Immigration and
24 Nationality Act (8 U.S.C. 1362), de-
25 claratory judgment that the unaccom-

1 panied alien child has a right to be re-
2 ferred to counsel, including pro-bono
3 counsel, or a continuance of immigra-
4 tion proceedings, shall be the exclusive
5 remedies available, other than for
6 those funds subject to appropriations.

7 “(II) SETTLEMENTS.—Any set-
8 tlement under this paragraph shall be
9 subject to appropriations.”.

10 **SEC. 3513. COUNSEL FOR CERTAIN INCOMPETENT INDIVID-**
11 **UALS.**

12 Section 240 of the Immigration and Nationality Act
13 (8 U.S.C. 1158(a)) is amended—

14 (1) by redesignating subsection (e) as sub-
15 section (f); and

16 (2) by inserting after subsection (d) the fol-
17 lowing:

18 “(e) REPRESENTATION FOR CERTAIN INCOMPETENT
19 ALIENS.—

20 “(1) IN GENERAL.—The immigration judge is
21 authorized to appoint legal counsel or a certified
22 representative accredited through the Department of
23 Justice to represent an alien in removal proceedings
24 if—

25 “(A) pro bono counsel is not available; and

1 “(B) the alien—
2 “(i) is unrepresented;
3 “(ii) was found by an immigration
4 judge to be incompetent to represent them-
5 selves; and
6 “(iii) has been placed in or referred to
7 removal proceedings pursuant to this sec-
8 tion.

9 “(2) DETERMINATION ON COMPETENCE.—

10 “(A) PRESUMPTION OF COMPETENCE.—An
11 alien is presumed to be competent to participate
12 in removal proceedings and has the duty to
13 raise the issue of competency. If there are no
14 indicia of incompetency in an alien’s case, no
15 further inquiry regarding competency is re-
16 quired.

17 “(B) DECISION OF THE IMMIGRATION
18 JUDGE.—

19 “(i) IN GENERAL.—If there are indi-
20 cia of incompetency, the immigration judge
21 shall consider whether there is good cause
22 to believe that the alien lacks sufficient
23 competency to proceed without additional
24 safeguards.

1 “(ii) INCOMPETENCY TEST.—The test
2 for determining whether an alien is incom-
3 petent to participate in immigration pro-
4 ceedings, is not malingering, and con-
5 sequently lacks sufficient capacity to pro-
6 ceed, is whether the alien, not solely on ac-
7 count of illiteracy or language barriers—

8 “(I) lacks a rational and factual
9 understanding of the nature and ob-
10 ject of the proceedings;

11 “(II) cannot consult with an
12 available attorney or representative;
13 and

14 “(III) does not have a reasonable
15 opportunity to examine and present
16 evidence and cross-examine witnesses.

17 “(iii) NO APPEAL.—A decision of an
18 immigration judge under this subpara-
19 graph may not be appealed administra-
20 tively and is not subject to judicial review.

21 “(C) EFFECT OF FINDING OF INCOM-
22 PETENCE.—A finding by an immigration judge
23 that an alien is incompetent to represent him-
24 self or herself in removal proceedings shall not
25 prejudice the outcome of any proceeding under

1 this section or any finding by the immigration
2 judge with respect to whether the alien is inad-
3 missible under section 212 or removable under
4 section 237.

5 “(3) QUARTERLY REPORT.—Not later than 90
6 days after the effective date of a final rule imple-
7 menting this subsection, and quarterly thereafter,
8 the Director of the Executive Office for Immigration
9 Review shall submit to the appropriate committees
10 of Congress a report that includes—

11 “(A)(i) the number of aliens in proceedings
12 under this section who claimed during the re-
13 porting period to be incompetent to represent
14 themselves, disaggregated by immigration court
15 and immigration judge; and

16 “(ii) a description of each reason given for
17 such claims, such as mental disease or mental
18 defect; and

19 “(B)(i) the number of aliens in proceedings
20 under this section found during the reporting
21 period by an immigration judge to be incom-
22 petent to represent themselves, disaggregated
23 by immigration court and immigration judge;
24 and

1 “(ii) a description of each reason upon
2 which such findings were based, such as mental
3 disease or mental defect.

4 “(4) RULE OF CONSTRUCTION.—Nothing in
5 this subsection may be construed—

6 “(A) to require the Secretary of Homeland
7 Security or the Attorney General to analyze
8 whether an alien is incompetent to represent
9 themselves, absent an indicia of incompetency;

10 “(B) to establish a substantive due process
11 right;

12 “(C) to automatically equate a diagnosis of
13 a mental illness to a lack of competency;

14 “(D) to limit the ability of the Attorney
15 General or the immigration judge to prescribe
16 safeguards to protect the rights and privileges
17 of the alien;

18 “(E) to limit any authorized representation
19 program by a State, local, or Tribal govern-
20 ment;

21 “(F) to provide any statutory right to rep-
22 resentation in any proceeding authorized under
23 this Act, unless such right is already authorized
24 by law; or

1 “(G) to interfere with, create, or expand
2 any right or responsibility established through a
3 court order or settlement agreement in effect
4 before the date of the enactment of the Border
5 Act.

6 “(5) RULEMAKING.—The Attorney General is
7 authorized to prescribe regulations to carry out this
8 subsection.”.

9 **SEC. 3514. CONFORMING AMENDMENT.**

10 Section 292 of the Immigration and Nationality Act
11 (8 U.S.C. 1362) is amended to read as follows:

12 **“SEC. 292. RIGHT TO COUNSEL.**

13 “(a) IN GENERAL.—In any removal proceeding be-
14 fore an immigration judge and in any appeal proceeding
15 before the Attorney General from an order issued through
16 such removal proceeding, the person concerned shall have
17 the privilege of being represented (at no expense to the
18 Federal Government) by any counsel who is authorized to
19 practice in such proceedings.

20 “(b) EXCEPTIONS FOR CERTAIN POPULATIONS.—
21 The Federal Government is authorized to provide counsel,
22 at its own expense, in proceedings described in subsection
23 (a) for—

24 “(1) unaccompanied alien children described in
25 paragraph (5)(B) of section 235(c) of the William

1 Wilberforce Trafficking Victims Protection Reau-
2 thorization Act of 2008 (8 U.S.C. 1232(c)); and

3 “(2) subject to appropriations, certain incom-
4 petent aliens described in section 240(e).”.

5 **TITLE VI—ACCOUNTABILITY**
6 **AND METRICS**

7 **SEC. 3601. EMPLOYMENT AUTHORIZATION COMPLIANCE.**

8 Not later than 1 year and 180 days after the date
9 of the enactment of this Act, and annually thereafter, the
10 Secretary shall submit a report to the appropriate commit-
11 tees of Congress and to the public that describes the ac-
12 tions taken by Secretary pursuant to section 235C of the
13 Immigration and Nationality Act, as added by section
14 3502, including—

15 (1) the number of employment authorization
16 applications granted or denied pursuant to sub-
17 section (a)(1) of such section 235C, disaggregated
18 by whether the alien concerned was processed under
19 the procedures described in section 235(b)(1) or
20 235B of such Act;

21 (2) the ability of the Secretary to comply with
22 the timelines for provision of work authorization pre-
23 scribed in subparagraphs (A) through (C) of section
24 235C(a)(2) of such Act, including whether com-
25 plying with subparagraphs (A) and (B) of such sec-

1 tion 235C(a)(2) has caused delays in the processing
2 of such aliens;

3 (3) the number of employment authorizations
4 revoked due to an alien's failure to comply with the
5 requirements under section 235B(f)(5)(B) of the
6 Immigration and Nationality Act, as added by sec-
7 tion 3141, or for any other reason, along with the
8 articulated basis; and

9 (4) the average time for the revocation of an
10 employment authorization if an alien is authorized to
11 work under section 235C of the Immigration and
12 Nationality Act and is subsequently ordered re-
13 moved.

14 **SEC. 3602. LEGAL ACCESS IN CUSTODIAL SETTINGS.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, and annually thereafter, the Secretary
17 shall submit a report to the appropriate committees of
18 Congress and to the public regarding alien access to legal
19 representation and consultation in custodial settings, in-
20 cluding—

21 (1) the total number of aliens who secured or
22 failed to secure legal representation pursuant to sec-
23 tion 235(b)(1)(B)(iv)(V) of the Immigration and
24 Nationality Act, as added by section 3511, before
25 the protection determination under section

1 235(b)(1)(B)(i) of such Act, including the disposi-
2 tion of such alien's interview;

3 (2) the total number of aliens who waived the
4 72-hour period pursuant to section
5 235(b)(1)(B)(iv)(IV)(bb) of such Act, including the
6 disposition of the alien's protection determination
7 pursuant to section 235(b)(1)(B)(i) of such Act;

8 (3) the total number of aliens who required a
9 verbal interpretation of the information about
10 screenings and interviews pursuant to section
11 235(b)(1)(B)(iv) of such Act, disaggregated by the
12 number of aliens who received or did not receive
13 such an interpretation, respectively, pursuant to sec-
14 tion 235(b)(1)(B)(iv)(III) of such Act, including the
15 disposition of their respective protection determina-
16 tions pursuant to section 235(b)(1)(B)(i) of such
17 Act;

18 (4) the total number of aliens who received in-
19 formation, either verbally or in writing, in their na-
20 tive language; and

21 (5) whether such policies and procedures with
22 respect to access provided in section
23 235(b)(1)(B)(iv) have been made available publicly.

1 **SEC. 3603. CREDIBLE FEAR AND PROTECTION DETERMINA-**
2 **TIONS.**

3 Not later than 1 year and 60 days after the date of
4 the enactment of this Act, and annually thereafter, the
5 Director of U.S. Citizenship and Immigration Services
6 shall submit a report to the appropriate committees of
7 Congress and to the public that sets forth—

8 (1) the number of aliens who requested or re-
9 ceived a protection determination pursuant to sec-
10 tion 235(b)(1)(B) of the Immigration and Nation-
11 ality Act (8 U.S.C. 1225(b)(1)(B));

12 (2) the number of aliens who requested or re-
13 ceived a protection determination pursuant to sec-
14 tion 235B(b) of such Act, as added by section 3141;

15 (3) the number of aliens described in para-
16 graphs (1) and (2) who are subject to an asylum ex-
17 ception under section 235(b)(1)(B)(vi) of such Act,
18 disaggregated by specific asylum exception;

19 (4) the number of aliens for whom an asylum
20 officer determined that an alien may be eligible for
21 a waiver under section 235(b)(1)(B)(vi) of such Act
22 and did not apply such asylum exception to such
23 alien;

24 (5) the number of aliens described in paragraph
25 (1) or (2) who—

1 (A) received a positive screening or deter-
2 mination; or

3 (B) received a negative screening or deter-
4 mination;

5 (6) the number of aliens described in paragraph
6 (5)(B) who requested reconsideration or appeal of a
7 negative screening and the disposition of such re-
8 quests;

9 (7) the number of aliens described in paragraph
10 (6) who, upon reconsideration—

11 (A) received a positive screening or deter-
12 mination, as applicable; or

13 (B) received a negative screening or deter-
14 mination, as applicable;

15 (8) the number of aliens described in paragraph
16 (5)(B) who appealed a decision subsequent to a re-
17 quest for reconsideration;

18 (9) the number of aliens described in paragraph
19 (5)(B) who, upon appeal of a decision, disaggregated
20 by whether or not such alien requested reconsider-
21 ation of a negative screening—

22 (A) received a positive screening or deter-
23 mination, as applicable; or

24 (B) received negative screening or deter-
25 mination, as applicable; and

1 (10) the number of aliens who withdraw their
2 application for admission, including—

3 (A) whether such alien could read or write;

4 (B) whether the withdrawal occurred in
5 the alien's native language;

6 (C) the age of such alien; and

7 (D) the Federal agency or component that
8 processed such withdrawal.

9 **SEC. 3604. PUBLICATION OF OPERATIONAL STATISTICS BY**
10 **U.S. CUSTOMS AND BORDER PROTECTION.**

11 (a) IN GENERAL.—Beginning in the second calendar
12 month beginning after the date of the enactment of this
13 Act, the Commissioner for U.S. Customs and Border Pro-
14 tection shall publish, not later than the seventh day of
15 each month, on a publicly available website of the Depart-
16 ment, information from the previous month relating to—

17 (1) the number of alien encounters,
18 disaggregated by—

19 (A) whether such aliens are admissible or
20 inadmissible, including the basis for such deter-
21 minations;

22 (B) the U.S. Border Patrol sector and
23 U.S. Customs and Border Protection field office
24 that recorded the encounter;

1 (C) any outcomes recorded in the terrorist
2 screening database (as such term is defined in
3 section 2101 of the Homeland Security Act of
4 2002 (6 U.S.C. 621)), including—

5 (i) whether the alien is found to be in-
6 admissible or removeable due to a specific
7 ground relating to terrorism;

8 (ii) the alien's country of nationality,
9 race or ethnic identification, and age; and

10 (iii) whether the alien's alleged ter-
11 rorism is related to domestic or inter-
12 national actors, if available;

13 (D) aliens with active Federal or State
14 warrants for arrest in the United States and
15 the nature of the crimes justifying such war-
16 rants;

17 (E) the nationality of the alien;

18 (F) whether the alien encountered is a sin-
19 gle adult, an individual in a family unit, an un-
20 accompanied child, or an accompanied child;

21 (G) the average time the alien remained in
22 custody, disaggregated by demographic infor-
23 mation;

24 (H) the processing disposition of each alien
25 described in this paragraph upon such alien's

1 release from the custody of U.S. Customs and
2 Border Protection, disaggregated by nationality;

3 (I) the number of aliens who are paroled
4 pursuant to section 212(d)(5) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1182(d)(5)),
6 disaggregated by geographic region or sector;

7 (J) the recidivism rate of aliens described
8 in this paragraph, including the definition of
9 “recidivism” and notice of any changes to such
10 definition; and

11 (K) aliens who have a confirmed gang af-
12 filiation, including—

13 (i) whether such alien was determined
14 to be inadmissible or removable due to
15 such affiliation;

16 (ii) the specific gang affiliation al-
17 leged;

18 (iii) the basis of such allegation; and

19 (iv) the Federal agency or component
20 that made such allegation or determina-
21 tion;

22 (2) seizures, disaggregated by the U.S. Border
23 Patrol sector and U.S. Customs and Border Protec-
24 tion field office that recorded the encounter, of—

25 (A) narcotics;

1 (B) firearms, whether inbound or out-
2 bound, including whether such firearms were
3 manufactured in the United States, if known;

4 (C) monetary instruments, whether in-
5 bound and outbound; and

6 (D) other specifically identified contra-
7 band;

8 (3) with respect to border emergency authority
9 described in section 244A of the Immigration and
10 Nationality Act, as added by section 3301—

11 (A) the number of days such authority was
12 in effect;

13 (B) the number of encounters (as defined
14 in section 244A(i)(3)) of such Act,
15 disaggregated by U.S. Border Patrol sector and
16 U.S. Customs and Border Patrol field office;

17 (C) the number of summary removals
18 made under such authority;

19 (D) the number of aliens who manifested
20 a fear of persecution or torture and were
21 screened for withholding of removal or for pro-
22 tection under the Convention Against Torture,
23 and the disposition of each such screening, in-
24 cluding the processing disposition or outcome;

1 (E) the number of aliens who were
2 screened at a port of entry in a safe and orderly
3 manner each day such authority was in effect,
4 including the processing disposition or outcome;

5 (F) whether such authority was exercised
6 under subparagraph (A), (B)(i), or (B)(ii) of
7 section 244A(b)(3) of such Act;

8 (G) a public description of all the methods
9 by which the Secretary determines if an alien
10 may be screened in a safe and orderly manner;

11 (H) the total number of languages that are
12 available for such safe and orderly process;

13 (I) the number of aliens who were returned
14 to a country that is not their country of nation-
15 ality;

16 (J) the number of aliens who were re-
17 turned to any country without a humanitarian
18 or protection determination during the use of
19 such authority;

20 (K) the number of United States citizens
21 who were inadvertently detained, removed, or
22 affected by such border emergency authority;

23 (L) the number of individuals who have
24 lawful permission to enter the United States

1 and were inadvertently detained, removed, or
2 affected by such border emergency authority;

3 (M) a summary of the impact to lawful
4 trade and travel during the use of such border
5 emergency authority, disaggregated by port of
6 entry;

7 (N) the disaggregation of the information
8 described in subparagraphs (C), (D), (E), (I),
9 (J), (K), and (L) by the time the alien re-
10 mained in custody and by citizenship and family
11 status, including—

12 (i) single adults;

13 (ii) aliens traveling in a family unit;

14 (iii) unaccompanied children;

15 (iv) accompanied children;

16 (4) information pertaining to agricultural in-
17 spections;

18 (5) border rescues and mortality data;

19 (6) information regarding trade and travel; and

20 (7) with respect to aliens who were transferred
21 from the physical custody of a State or Federal law
22 enforcement agency or other State agency to the
23 physical custody of a Federal agency or compo-
24 nent—

25 (A) the specific States concerned;

1 (B) whether such alien had initially been
2 charged with a State crime before the State
3 transferred such alien to such Federal agency
4 or component; and

5 (C) the underlying State crime with which
6 the alien was charged.

7 (b) TOTALS.—The information described in sub-
8 section (a) shall include the total amount of each element
9 described in each such paragraph in the relevant unit of
10 measurement for reporting month.

11 (c) DEFINITIONS.—The monthly publication required
12 under subsection (a) shall—

13 (1) include the definition of all terms used by
14 the Commissioner; and

15 (2) specifically note whether the definition of
16 any term has been changed.

17 (d) PROTECTION OF PERSONALLY IDENTIFIABLE IN-
18 FORMATION.—In preparing each publication pursuant to
19 subsection (a), the Secretary shall—

20 (1) protect any personally identifiable informa-
21 tion associated with aliens described in subsection
22 (a); and

23 (2) comply with all applicable privacy laws.

1 **SEC. 3605. UTILIZATION OF PAROLE AUTHORITIES.**

2 Section 602(b) of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1182
4 note) is amended to read as follows:

5 “(b) ANNUAL REPORT TO CONGRESS.—

6 “(1) IN GENERAL.—Not later than 90 days
7 after the end of each fiscal year, the Secretary of
8 Homeland Security shall submit a report to the
9 Committee on the Judiciary of the Senate, the Com-
10 mittee on Homeland Security and Governmental Af-
11 fairs of the Senate, the Committee on the Judiciary
12 of the House of Representatives, the Committee on
13 Homeland Security of the House of Representatives,
14 and the public that identifies the number of aliens
15 paroled into the United States pursuant to section
16 212(d)(5) of the Immigration and Nationality Act (8
17 U.S.C. 1182(d)(5)).

18 “(2) CONTENTS.—Each report required under
19 paragraph (1) shall include—

20 “(A) the total number of aliens—

21 “(i) who submitted applications for
22 parole;

23 “(ii) whose parole applications were
24 approved; or

25 “(iii) who were granted parole into
26 the United States during the fiscal year

1 immediately preceding the fiscal year dur-
2 ing which such report is submitted;

3 “(B) the elements described in subpara-
4 graph (A), disaggregated by—

5 “(i) citizenship or nationality;

6 “(ii) demographic categories;

7 “(iii) the component or subcomponent
8 of the Department of Homeland Security
9 that granted such parole;

10 “(iv) the parole rationale or class of
11 admission, if applicable; and

12 “(v) the sector, field office, area of re-
13 sponsibility, or port of entry where such
14 parole was requested, approved, or grant-
15 ed;

16 “(C) the number of aliens who requested
17 re-parole, disaggregated by the elements de-
18 scribed in subparagraph (B), and the number of
19 denials of re-parole requests;

20 “(D) the number of aliens whose parole
21 was terminated for failing to abide by the terms
22 of parole, disaggregated by the elements de-
23 scribed in subparagraph (B);

1 “(E) for any parole rationale or class of
2 admission which requires sponsorship, the num-
3 ber of sponsor petitions which were—

4 “(i) confirmed;

5 “(ii) confirmed subsequent to a non-
6 confirmation; or

7 “(iii) denied;

8 “(F) for any parole rationale or class of
9 admission in which a foreign government has
10 agreed to accept returns of third country na-
11 tionals, the number of returns of such third
12 country nationals such foreign government has
13 accepted;

14 “(G) the number of aliens who filed for
15 asylum after being paroled into the United
16 States; and

17 “(H) the number of aliens described in
18 subparagraph (G) who were granted employ-
19 ment authorization based solely on a grant of
20 parole.

21 “(3) PROTECTION OF PERSONALLY IDENTIFI-
22 ABLE INFORMATION.—In preparing each report pur-
23 suant to paragraph (1), the Secretary shall—

1 (ii) were not given such proper service
2 and notice;

3 (C) the number of aliens who received a
4 protection determination interview pursuant to
5 section 235B(c) of such Act within the 90-day
6 period required under section 235B(b)(3)(A) of
7 such Act;

8 (D) the number of aliens described in sub-
9 paragraph (C)—

10 (i) who retained legal counsel;

11 (ii) who received a positive protection
12 determination;

13 (iii) who received a negative protection
14 determination;

15 (iv) for those aliens described in
16 clause (iii), the number who—

17 (I) requested reconsideration;

18 (II) whether such reconsideration
19 resulted in approval or denial;

20 (III) whether an alien upon re-
21 ceiving a negative motion for reconsid-
22 eration filed an appeal;

23 (IV) who appealed a negative de-
24 cision without filing for reconsider-
25 ation;

1 (V) whether the appeal resulted
2 in approval or denial, disaggregated
3 by the elements in subclauses (III)
4 and (IV); and

5 (VI) whether the alien, upon re-
6 ceiving a negative decision as de-
7 scribed in subclauses (III) and (V),
8 was removed from the United States
9 upon receiving such negative decision;
10 (v) who absconded during such pro-
11 ceedings; and

12 (vi) who failed to receive proper serv-
13 ice;

14 (E) the number of aliens who were proc-
15 essed pursuant to section 235B(f) of such Act;
16 and

17 (F) the number of aliens described in sub-
18 paragraph (E) who submitted their application
19 pursuant to section 235B(f)(2)(B)(i) of such
20 Act;

21 (2) the average time taken by the Department
22 of Homeland Security—

23 (A) to perform a protection determination
24 interview pursuant to section 235B(b) of such
25 Act;

1 (B) to serve notice of a protection deter-
2 mination pursuant to section 235B(e) of such
3 Act after a determination has been made pursu-
4 ant to section 235B(b) of such Act;

5 (C) to provide an alien with a work author-
6 ization pursuant to section 235C of such Act,
7 as added by section 3501, disaggregated by the
8 requirements under subparagraphs (A), (B),
9 and (C) of section 235C(a)(2) of such Act; and

10 (D) the utilization of the Alternatives to
11 Detention program authorized under section
12 235B(a)(3) of such Act, disaggregated by—

13 (i) types of alternatives to detention
14 used to supervise the aliens after being re-
15 leased from physical custody;

16 (ii) the level of compliance by the
17 alien with the rules of the Alternatives to
18 Detention program; and

19 (iii) the total cost of each Alternatives
20 to Detention type;

21 (3) the number of aliens processed pursuant to
22 section 240D(d) of such Act, disaggregated by—

23 (A) whether the alien was a single adult or
24 a member of a family unit;

1 (B) the number of aliens who were pro-
2 vided proper service and notice of a protection
3 determination pursuant to section 235B(e) of
4 such Act;

5 (C) the number of aliens who received a
6 protection merits interview pursuant to section
7 240D(c)(3) of such Act within the 90-day pe-
8 riod required under section 240D(b) of such
9 Act;

10 (D) the number of aliens who received a
11 positive protection merits determination pursu-
12 ant to section 240D(d)(2) of such Act;

13 (E) the number of aliens who received a
14 negative protection merits determination pursu-
15 ant to section 240D(d)(3) of such Act,
16 disaggregated by the number of aliens who ap-
17 pealed the determination pursuant to section
18 240D(e) of such Act and who received a result
19 pursuant to section 240D(e)(7) of such Act;

20 (F) the number of aliens who were proc-
21 essed pursuant to section 240D of such Act
22 who retained legal counsel;

23 (G) the number of aliens who appeared at
24 such proceedings; and

1 (H) the number of aliens who absconded
2 during such proceedings; and

3 (4) the average time taken by the Department
4 of Homeland Security—

5 (A) to perform a protection merits inter-
6 view pursuant to section 240D(d) of such Act;

7 (B) to serve notice of a protection merits
8 determination pursuant to section 240D(d) of
9 such Act; and

10 (C) the utilization of Alternatives to De-
11 tention program authorized under section
12 240D(e)(2) of such Act, disaggregated by—

13 (i) types of alternatives to detention
14 used to supervise the aliens after being re-
15 leased from physical custody; and

16 (ii) the level of compliance by the
17 aliens with rules of the Alternatives to De-
18 tention program.

19 (c) PROTECTION OF PERSONALLY IDENTIFIABLE IN-
20 FORMATION.—In preparing each report pursuant to sub-
21 section (a), the Secretary shall—

22 (1) protect any personally identifiable informa-
23 tion associated with aliens described in subsection
24 (a); and

25 (2) comply with all applicable privacy laws.

1 **SEC. 3607. ACCOUNTABILITY IN VOLUNTARY REPATRI-**
2 **ATION, WITHDRAWAL, AND DEPARTURE.**

3 (a) IN GENERAL.—Not later than 1 year and 30 days
4 after the date of the enactment of this Act, the Secretary
5 shall submit a report to the appropriate committees of
6 Congress regarding the implementation of section 240G
7 of the Immigration and Nationality Act, as added by sec-
8 tion 3144.

9 (b) CONTENTS.—The report required under sub-
10 section (a) shall include the number of aliens who utilized
11 the provisions of such section 240G, disaggregated by—

12 (1) demographic information;

13 (2) the period in which the election took place;

14 (3) the total costs of repatriation flight when
15 compared to the cost to charter a private, commer-
16 cial flight for such return;

17 (4) alien use of reintegration or reception pro-
18 grams in the alien's country of nationality after re-
19 moval from the United States;

20 (5) the number of aliens who failed to depart
21 in compliance with section 240G(i)(2) of such Act;

22 (6) the number of aliens to which a civil penalty
23 and a period of ineligibility was applied; and

24 (7) the number of aliens who did depart.

1 **SEC. 3608. GAO ANALYSIS OF IMMIGRATION JUDGE AND**
2 **ASYLUM OFFICER DECISION-MAKING RE-**
3 **GARDING ASYLUM, WITHHOLDING OF RE-**
4 **MOVAL, AND PROTECTION UNDER THE CON-**
5 **VENTION AGAINST TORTURE.**

6 (a) IN GENERAL.—Not later than 2 years after the
7 Comptroller General of the United States submits the cer-
8 tification described in section 3146(d)(3), the Comptroller
9 General shall analyze the decision rates of immigration
10 judges and asylum officers regarding aliens who have re-
11 ceived a positive protection determination and have been
12 referred to proceedings under section 240 or 240D of the
13 Immigration and Nationality Act, as applicable, to deter-
14 mine—

15 (1) whether the Executive Office for Immigra-
16 tion Review and U.S. Citizenship and Immigration
17 Services have any differential in rate of decisions for
18 cases involving asylum, withholding of removal, or
19 protection under the Convention Against Torture
20 and Other Cruel, Inhuman or Degrading Treatment
21 or Punishment, done at New York December 10,
22 1984; and

23 (2) the causes for any such differential, includ-
24 ing any policies, procedures, or other administrative
25 measures.

1 (b) RECOMMENDATIONS.—Upon completing the anal-
2 ysis required under subsection (a), the Comptroller Gen-
3 eral shall submit recommendations to the Director of the
4 Executive Office for Immigration Review and the Director
5 of U.S. Citizenship and Immigration Services regarding
6 any administrative or procedural changes necessary to en-
7 sure uniformity in decision-making between those agen-
8 cies, which may not include quotas.

9 **SEC. 3609. REPORT ON COUNSEL FOR UNACCOMPANIED**
10 **ALIEN CHILDREN.**

11 (a) IN GENERAL.—Not later than 120 days after the
12 date of the enactment of this Act, and annually thereafter,
13 the Secretary of Health and Human Services shall submit
14 a report to the appropriate committees of Congress with
15 respect to unaccompanied alien children who received ap-
16 pointed counsel pursuant to section 235(c)(5)(B) of the
17 William Wilberforce Trafficking Victims Protection Reau-
18 thorization Act of 2008, as added by section 3512, includ-
19 ing—

- 20 (1) the number of unaccompanied alien children
21 who obtained such counsel compared to the number
22 of such children who did not obtain such counsel;
- 23 (2) the sponsorship category of unaccompanied
24 alien children who obtained counsel;

1 (3) the age ranges of unaccompanied alien chil-
2 dren who obtained counsel;

3 (4) the administrative appeals, if any, of unac-
4 companied alien children who obtained counsel; and

5 (5) the case outcomes of unaccompanied alien
6 children who obtained counsel.

7 (b) **PROTECTION OF PERSONALLY IDENTIFIABLE IN-**
8 **FORMATION.**—In preparing each report pursuant to sub-
9 section (a), the Secretary of Health and Human Services
10 shall—

11 (1) protect any personally identifiable informa-
12 tion associated with aliens described in subsection
13 (a); and

14 (2) comply with all applicable privacy laws.

15 **SEC. 3610. RECALCITRANT COUNTRIES.**

16 Section 243(d) of the Immigration and Nationality
17 Act (8 U.S.C. 1253(d)) is amended—

18 (1) by striking “On being notified” and insert-
19 ing the following:

20 “(1) **IN GENERAL.**—On being notified”; and

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

22 “(2) **REPORT ON RECALCITRANT COUNTRIES.**—

23 “(A) **IN GENERAL.**—Not later than 90
24 days after the last day of each fiscal year, the

1 Secretary of Homeland Security and the Sec-
2 retary of State shall jointly—

3 “(i) prepare an unclassified annual re-
4 port, which may include a classified annex,
5 that includes the information described in
6 subparagraph (C); and

7 “(ii) submit such report to Committee
8 on Homeland Security and Governmental
9 Affairs of the Senate; the Committee on
10 the Judiciary of the Senate, the Committee
11 on Foreign Relations of the Senate, the
12 Committee on Homeland Security of the
13 House of Representatives, the Committee
14 on the Judiciary of the House of Rep-
15 resentatives, and the Committee on For-
16 eign Affairs of the House of Representa-
17 tives.

18 “(B) BRIEFING.—Not later than 30 days
19 after the date on which a report is submitted
20 pursuant to subparagraph (A), designees of the
21 Secretary of Homeland Security and of the Sec-
22 retary of State shall brief the committees re-
23 ferred to in subparagraph (A)(ii) regarding any
24 measures taken to encourage countries to ac-
25 cept the return of their citizens, subjects, or na-

1 tionals, or aliens whose last habitual residence
2 was within each such country, who have been
3 ordered removed from the United States.

4 “(C) CONTENTS.—Each report prepared
5 pursuant to subparagraph (A)(i) shall include—

6 “(i) a list of all countries that—

7 “(I) deny the acceptance of their
8 citizens, subjects, or nationals, or
9 aliens whose last habitual residence
10 was within such country, who have
11 been ordered removed to such country
12 from the United States; or

13 “(II) unreasonably delay the ac-
14 ceptance of their citizens, subjects, or
15 nationals, or aliens whose last habit-
16 ual residence was within such country,
17 who have been ordered removed to
18 such country from the United States;

19 “(ii) for each country described in
20 clause (i)(II), the average length of delay
21 of such citizens, subjects, nationals, or
22 aliens acceptance into such country;

23 “(iii) a list of the foreign countries
24 that have placed unreasonable limitations
25 upon the acceptance of their citizens, sub-

1 jects, or nationals, or aliens whose last ha-
2 bitual residence was within such country,
3 who have been ordered removed to such
4 country from the United States;

5 “(iv) a description of the criteria used
6 to determine that a country described
7 under clause (iii) has placed such unrea-
8 sonable limitations;

9 “(v) the number of aliens ordered re-
10 moved from the United States to a country
11 described in clause (i) or (iii) whose re-
12 moval from the United States was pending
13 as of the last day of the previous fiscal
14 year, including—

15 “(I) the number of aliens who—

16 “(aa) received a denial of a
17 work authorization; and

18 “(bb) are not eligible to re-
19 quest work authorization;

20 “(vi) the number of aliens ordered re-
21 moved from the United States to a country
22 described in clause (i) or (iii) whose re-
23 moval from the United States was pending
24 as of the last day of the previous fiscal

1 year and who are being detained,
2 disaggregated by—

3 “(I) the length of such detention;

4 “(II) the aliens who requested a
5 review of the significant likelihood of
6 their removal in the reasonably fore-
7 seeable future;

8 “(III) the aliens for whom the re-
9 quest for release under such review
10 was denied;

11 “(IV) the aliens who remain de-
12 tained on account of special cir-
13 cumstances despite no significant like-
14 lihood that such aliens will be re-
15 moved in the foreseeable future,
16 disaggregated by the specific cir-
17 cumstance;

18 “(V) the aliens described in sub-
19 clause (IV) who are being detained
20 based on a determination that they
21 are specially dangerous;

22 “(VI) the aliens described in sub-
23 clause (V) whose request to review the
24 basis for their continued detention
25 was denied;

1 “(VII) demographic categories,
2 including part of a family unit, single
3 adults, and unaccompanied alien chil-
4 dren;

5 “(vii) the number of aliens referred to
6 in clauses (i) through (iii) who—

7 “(I) have criminal convictions,
8 disaggregated by National Crime In-
9 formation Center code, whether mis-
10 demeanors or felonies;

11 “(II) are considered national se-
12 curity threats to the United States;

13 “(III) are members of a criminal
14 gang or another organized criminal
15 organization, if found to be inadmis-
16 sible or removable on such grounds; or

17 “(IV) have been released from
18 U.S. Immigration and Customs En-
19 forcement custody on an order of su-
20 pervision and the type of supervision
21 and compliance with such supervision,
22 if applicable;

23 “(viii) a description of the actions
24 taken by the Department of Homeland Se-
25 curity and the Department of State to en-

1 courage foreign nations to accept the re-
2 turn of their nationals; and

3 “(ix) the total number of individuals
4 that such jurisdiction has accepted who are
5 not citizens, subjects, or nationals, or
6 aliens who last habitually resided within
7 such jurisdiction and have been removed
8 from the United States, if any.”.

9 **TITLE VII—OTHER MATTERS**

10 **SEC. 3701. SEVERABILITY.**

11 If any provision of this Act, any amendment made
12 by this Act, or the application of any such provision or
13 amendment to any person or circumstance is held to be
14 unconstitutional, the remainder of this Act, the amend-
15 ments made by this Act, and the application of such provi-
16 sions or amendments to any other person or circumstance
17 shall not be affected.