foreign person of real estate described in paragraph (2) or would result in control by a covered foreign person of a United States business engaged in agriculture, the President shall prohibit the transaction unless a party to the transaction voluntarily chooses to abandon the transaction.

''(2) REAL ESTATE DESCRIBED.—Subject to regulations prescribed by the Committee, real estate described in this paragraph is agricultural land (as defined in section 9 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508)) in the United States that is in close proximity (subject to subsection (a)(4)(C)(ii)) to a United States military installation or another facility or property of the United States Government that is—

''(A) sensitive for reasons relating to national security for purposes of subsection (a)(4)(B)(ii)(II)(bb); and

''(B) identified in regulations prescribed by the Committee.

''(3) WAIVER.—The President may waive, on a case-by-case basis, the requirement to prohibit a transaction under paragraph (1) after the President determines and reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that the waiver is in the national interest of the United States.

''(4) COVERED FOREIGN PERSON DEFINED.—

''(A) IN GENERAL.—In this subsection, subject to regulations prescribed by the Committee, the term 'covered foreign person'—

''(i) means any foreign person (including a foreign entity) that acts as an agent, representative, or employee of, or acts at the direction or control of, the government of a covered country; and

''(ii) does not include a United States citizen or an alien lawfully admitted for permanent residence to the United States.

''(B) COVERED COUNTRY DEFINED.—For purposes of subparagraph (A), the term 'covered country' means any of the following countries, if the country is determined to be a foreign adversary pursuant to section 7.4 of title 15, Code of Federal Regulations (or a successor regulation):

''(i) The People's Republic of China.

''(ii) The Russian Federation.

''(iii) The Islamic Republic of Iran.

''(iv) The Democratic People's Republic of Korea.''.

(b) SPENDING PLANS.—Not later than 60 days after the date of the enactment of this Act, each department or agency represented on the Committee on Foreign Investment in the United States shall submit to the chairperson of the Committee a copy of the most recent spending plan required under section 1721(b) of the Foreign Investment Risk Review Modernization Act of 2018 (50 U.S.C. 4565 note).

(c) REGULATIONS.—

(1) IN GENERAL.—The President shall direct, subject to section 553 of title 5, United States Code, the issuance of regulations to carry out the amendments made by this section.

(2) EFFECTIVE DATE.—The regulations prescribed under paragraph (1) shall take effect not later than one year after the date of the enactment of this Act.

(d) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section shall—

(1) take effect on the date that is 30 days after the effective date of the regulations under subsection (c)(2); and

(2) apply with respect to a covered transaction (as defined in section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565)) that is proposed, pending, or completed on or after the date described in paragraph (1).

(e) SUNSET.—The amendments made by this section, and any regulations prescribed to carry out those amendments, shall cease to be effective on the date that is 7 years after the date of the enactment of this Act.

SA 1863. Mr. ROUNDS submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION C—BORDER ACT

SEC. 4001. SHORT TITLE.

This division may be cited as the ''Border Act''.

SEC. 4002. DEFINITIONS.

In this division:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—Except as otherwise explicitly provided, the term ''appropriate committees of Congress'' means—

(A) the Committee on Appropriations of the Senate;

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

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

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

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

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

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

TITLE I—CAPACITY BUILDING

Subtitle A—Hiring, Training, and Systems Modernization

CHAPTER 1—HIRING AUTHORITIES

SEC. 4101. USCIS DIRECT HIRE AUTHORITY.

(a) IN GENERAL.—The Secretary may appoint, without regard to the provisions of sections 3309 through 3319 of title 5, United States Code, candidates needed for positions within the Refugee, Asylum and International Operations Directorate, the Field Operations Directorate, and the Service Center Operations Directorate of U.S. Citizenship and Immigration Services for which—

(1) public notice has been given;

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

(3) the Secretary has consulted with the Director of the Office of Personnel Management regarding—

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

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

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

(b) DEFINITION OF CRITICAL HIRING NEED.—In this section, the term ''critical hiring need'' means personnel necessary for the implementation of this Act and associated work.

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

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

(2) salary information of individuals hired pursuant to such authority; and

(3) how the Department of Homeland Security exercised such authority consistently with merit system principles.

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

SEC. 4102. ICE DIRECT HIRE AUTHORITY.

(a) IN GENERAL.—The Secretary may appoint, without regard to the provisions of sections 3309 through 3319 of title 5, United States Code, candidates needed for positions within Enforcement and Removal Operations of U.S. Immigration and Customs Enforcement as a deportation officer or with duties exclusively relating to the Enforcement and Removal, Custody Operations, Alternatives to Detention, or Transportation and Removal program for which—

(1) public notice has been given;

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

(3) the Secretary has consulted with the Director of the Office of Personnel Management regarding—

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

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

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

(b) DEFINITION OF CRITICAL HIRING NEED.—In this section, the term ''critical hiring need'' means personnel necessary for the implementation of this Act and associated work.

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

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

(2) salary information of individuals hired pursuant to such authority; and

(3) how the Department of Homeland Security exercised such authority consistently with merit system principles.

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

SEC. 4103. REEMPLOYMENT OF CIVILIAN RETIREES TO MEET EXCEPTIONAL EMPLOYMENT NEEDS.

(a) AUTHORITY.—The Secretary, after consultation with the Director of the Office of Personnel Management, may waive, with respect to any position in U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or U.S. Citizenship and Immigration Services, the application of section 8344 or 8468 of title 5, United States Code, on a case-by-case basis, for employment of an annuitant in a position necessary to implement this Act and associated work, for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

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

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

SEC. 4104. ESTABLISHMENT OF SPECIAL PAY RATE FOR ASYLUM OFFICERS.

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

"§ 5332a. Special base rates of pay for asylum officers

''(a) DEFINITIONS.—In this section—

''(1) the term 'asylum officer' has the meaning given such term in section 235(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1));

''(2) the term 'General Schedule base rate' means an annual rate of basic pay established under section 5332 before any additions, such as a locality-based comparability payment under section 5304 or 5304a or a special rate supplement under section 5305; and

''(3) the term 'special base rate' means an annual rate of basic pay payable to an asylum officer, before any additions or reductions, that replaces the General Schedule base rate otherwise applicable to the asylum officer and that is administered in the same manner as a General Schedule base rate.

''(b) SPECIAL BASE RATES OF PAY.—

''(1) ENTITLEMENT TO SPECIAL RATE.—Notwithstanding section 5332, an asylum officer is entitled to a special base rate at grades 1 through 15, which shall—

''(A) replace the otherwise applicable General Schedule base rate for the asylum officer;

''(B) be basic pay for all purposes, including the purpose of computing a locality-based comparability payment under section 5304 or 5304a; and

''(C) be computed as described in paragraph (2) and adjusted at the time of adjustments in the General Schedule.

''(2) COMPUTATION.—The special base rate for an asylum officer shall be derived by increasing the otherwise applicable General Schedule base rate for the asylum officer by 15 percent for the grade of the asylum officer and rounding the result to the nearest whole dollar.''.

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

''5332a. Special base rates of pay for asylum officers.''.

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

CHAPTER 2—HIRING WAIVERS

SEC. 4111. HIRING FLEXIBILITY.

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

''(b) WAIVER AUTHORITY.—The Commissioner of U.S. Customs and Border Protection may waive the application of subsection (a)(1) in the following circumstances:

''(1) In the case of a current, full-time law enforcement officer employed by a State or local law enforcement agency, if such officer—

''(A) has served as a law enforcement officer for not fewer than three years with no break in service;

''(B) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers for arrest or apprehension;

''(C) is not currently under investigation, does not have disciplinary, misconduct, or derogatory records, has not been found to have engaged in a criminal offense or misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) has, within the past ten years, successfully completed a polygraph examination as a condition of employment with such officer's current law enforcement agency.

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

''(A) has served as a law enforcement officer for not fewer than three years with no break in service;

''(B) has authority to make arrests, conduct investigations, conduct searches, make seizures, carry firearms, and serve orders, warrants, and other processes;

''(C) is not currently under investigation, does not have disciplinary, misconduct, or derogatory records, has not been found to have engaged in a criminal offense or misconduct, has not resigned from a law enforcement officer position under investigation or in lieu of termination, and has not been dismissed from a law enforcement officer position; and

''(D) holds a current background investigation, in accordance with current standards required for access to Top Secret or Top Secret/Sensitive Compartmented Information.

''(3) In the case of an individual who is a member of the Armed Forces (or a reserve component thereof) or a veteran, if such individual—

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

''(B) holds, or has held within the past five years, Top Secret or Top Secret/Sensitive Compartmented Information clearance;

''(C) holds, or has undergone within the past five years, a current background investigation in accordance with current standards required for access to Top Secret or Top Secret/Sensitive Compartmented Information;

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

''(E) was not granted any waivers to obtain the clearance referred to subparagraph (B).

''(c) TERMINATION OF WAIVER AUTHORITY.—The authority to issue a waiver under subsection (b) shall terminate on the date that is 3 years after the date of the enactment of the Border Act.''.

SEC. 4112. SUPPLEMENTAL COMMISSIONER AUTHORITY AND DEFINITIONS.

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

"SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

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

''(b) BACKGROUND INVESTIGATIONS.—Any individual who receives a waiver under subsection (b) of section 3 who holds a background investigation in accordance with current standards required for access to Top Secret or Top Secret/Sensitive Compartmented Information shall be subject to an appropriate background investigation.

''(c) ADMINISTRATION OF POLYGRAPH EXAMINATION.—The Commissioner of U.S. Customs and Border Protection is authorized to administer a polygraph examination to an applicant or employee who is eligible for or receives a waiver under subsection (b) of section 3 if information is discovered prior to the completion of a background investigation that results in a determination that a polygraph examination is necessary to make a final determination regarding suitability for employment or continued employment, as the case may be.''.

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

"SEC. 5. REPORTING REQUIREMENTS.

''(a) ANNUAL REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter for three years, the Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that includes, with respect to the reporting period—

''(1) the number of waivers granted and denied under section 3(b);

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

''(3) the percentage of applicants who were hired after receiving a waiver;

''(4) the number of instances that a polygraph was administered to an applicant who initially received a waiver and the results of such polygraph;

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

''(6) additional authorities needed by U.S. Customs and Border Protection to better utilize the polygraph waiver program for its intended goals; and

''(7) any disciplinary actions taken against law enforcement officers hired under the waiver authority authorized under section 3(b).

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

''(1) an analysis of other methods of employment suitability tests that detect deception and could be used in conjunction with traditional background investigations to evaluate potential employees for suitability; and

''(2) a recommendation regarding whether a test referred to in paragraph (1) should be adopted by U.S. Customs and Border Protection when the polygraph examination requirement is waived pursuant to section 3(b).''.

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

"SEC. 6. GAO REPORT.

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

''(1) conduct a review of the disciplinary, misconduct, or derogatory records of all individuals hired using the waiver authority under subsection (b) of section 3—

''(A) to determine the rates of disciplinary actions taken against individuals hired using such waiver authority, as compared to individuals hired after passing the polygraph as required under subsection (a) of that section; and

''(B) to address any other issue relating to discipline by U.S. Customs and Border Protection; and

''(2) submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that appropriately protects sensitive information and describes the results of the review conducted under paragraph (1).

''(b) SUNSET.—The requirement under this section shall terminate on the date on which the third report required by subsection (a) is submitted.''.

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

"SEC. 7. DEFINITIONS.

''In this Act:

''(1) CRIMINAL OFFENSE.—The term 'criminal offense' means—

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

''(B) any other crime for which an essential element involves fraud, deceit, or misrepresentation to obtain an advantage or to disadvantage another.

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

''(3) MILITARY OFFENSE.—The term 'military offense' means—

''(A) an offense for which—

''(i) a member of the Armed Forces may be discharged or separated from service in the Armed Forces; or

''(ii) a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial, as pursuant to Army Regulation 635–200 chapter 14–12; and

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

''(4) VETERAN.—The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''.

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

SEC. 4121. ALTERNATIVES TO DETENTION IMPROVEMENTS.

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

(1) with respect to the alternatives to detention programs, U.S. Immigration and Customs Enforcement's processes that release aliens under any type of supervision, consistent and standard policies are in place across all U.S. Immigration and Customs Enforcement field offices;

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

(3) reports on the use of, and policies with respect to, such escalation and de-escalation techniques are provided to the public appropriately protecting sensitive information.

(b) ANNUAL POLICY REVIEW.—

(1) IN GENERAL.—Not less frequently than annually, the Director shall conduct a review of U.S. Immigration and Customs Enforcement policies with respect to the alternatives to detention programs so as to ensure standardization and evidence-based decision making.

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

(c) INDEPENDENT VERIFICATION AND VALIDATION.—Not less frequently than every 5 years, the Director shall ensure that an independent verification and validation of U.S. Immigration and Customs Enforcement policies with respect to the alternatives to detention programs is conducted.

SEC. 4122. TRAINING FOR U.S. BORDER PATROL.

(a) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection shall require all U.S. Border Patrol agents and other employees or contracted employees designated by the Commissioner to participate in annual continuing training to maintain and update their understanding of—

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

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

(3) applicable Federal law and regulations;

(4) applicable migration trends that the Commissioner determines are relevant;

(5) best practices for coordinating with community stakeholders;

(6) de-escalation training; and

(7) any other information the Commissioner determines to be relevant to active duty agents.

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

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

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

(3) trends in transnational criminal organization activities that impact border security and migration;

(4) policies, strategies, and programs—

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

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

(C) to improve the safety of agents on patrol;

(5) personal resilience;

(6) anti-corruption and officer ethics training;

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

(A) arriving to seek humanitarian protection; or

(B) encountered at a United States international boundary while attempting to enter without inspection;

(8) the impact of border security operations on natural resources and the environment, including strategies to limit the impact of border security operations on natural resources and the environment;

(9) relevant cultural, societal, racial, and religious training, including cross-cultural communication skills;

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

(11) risk management and safety training that includes agency protocols for ensuring public safety, personal safety, and the safety of persons in the custody of the Department of Homeland Security; and

(12) any other training that meets the requirements to maintain and update the subjects identified in subsection (a).

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

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

(2) shall be approved in advance by the Commissioner of U.S. Customs and Border Protection to ensure that such courses satisfy the requirements for training under this section.

(d) ASSESSMENT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that assesses the training and education provided pursuant to this section, including continuing education.

CHAPTER 4—MODERNIZING NOTICES TO APPEAR

SEC. 4131. ELECTRONIC NOTICES TO APPEAR.

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

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''or, if elected by the alien in writing, by email or other electronic means to the extent feasible, if the alien, or the alien's counsel of record, voluntarily elects such service or otherwise accepts service electronically'' after ''mail''; and

(B) in paragraph (2)(A), in the matter preceding clause (i), by inserting ''or, if elected by the alien in writing, by email or other electronic means to the extent feasible, if the alien, or the alien's counsel of record, voluntarily elects such service or otherwise accepts service electronically'' after ''mail''; and

(2) in subsection (c)—

(A) by inserting ''the alien, or to the alien's counsel of record, at'' after ''delivery to''; and

(B) by inserting '', or to the email address or other electronic address at which the alien elected to receive notice under paragraph (1) or (2) of subsection (a)'' before the period at the end.

SEC. 4132. AUTHORITY TO PREPARE AND ISSUE NOTICES TO APPEAR.

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

''(4) AUTHORITY FOR CERTAIN PERSONNEL TO SERVE NOTICES TO APPEAR.—Any mission support personnel within U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement who reports directly to an immigration officer with authority to issue a notice to appear, and who has received the necessary training to issue such a notice, shall be authorized to prepare a notice to appear under this section for review and issuance by the immigration officer.''.

Subtitle B—Asylum Processing at the Border

SEC. 4141. PROVISIONAL NONCUSTODIAL REMOVAL PROCEEDINGS.

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

"SEC. 235B. PROVISIONAL NONCUSTODIAL REMOVAL PROCEEDINGS.

''(a) GENERAL RULES.—

''(1) CIRCUMSTANCES WARRANTING NONCUSTODIAL PROCEEDINGS.—The Secretary, based upon operational circumstances, may refer an alien applicant for admission for proceedings described in this section if the alien—

''(A) indicates an intention to apply for a protection determination; or

''(B) expresses a credible fear of persecution (as defined in section 235(b)(1)(B)(v)) or torture.

''(2) RELEASE FROM CUSTODY.—Aliens referred for proceedings under this section shall be released from physical custody and processed in accordance with the procedures described in this section.

''(3) ALTERNATIVES TO DETENTION.—An adult alien, including a head of household, who has been referred for a proceeding under this section shall be supervised under the Alternatives to Detention program of U.S. Immigration and Customs Enforcement immediately upon release from physical custody

and continuing for the duration of such proceeding.

''(4) FAMILY UNITY.—The Secretary shall ensure, to the greatest extent practicable, that the referral of a family unit for proceedings under this section includes all members of such family unit who are traveling together.

''(5) EXCEPTIONS.—

''(A) UNACCOMPANIED ALIEN CHILDREN.—The provisions under this section may not be applied to unaccompanied alien children (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g))).

''(B) APPLICABILITY LIMITATION.—

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

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

''(I) has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States for more than the 14-day period immediately prior to the date on which the alien was encountered by U.S. Customs and Border Protection; and

''(II) was encountered within 100 air miles of the international land borders of the United States.

''(6) TIMING.—The provisional noncustodial removal proceedings described in this section shall conclude, to the maximum extent practicable, not later than 90 days after the date the alien is inspected and determined inadmissible.

''(b) PROCEDURES FOR PROVISIONAL NONCUSTODIAL REMOVAL PROCEEDINGS.—

''(1) COMMENCEMENT.—

''(A) IN GENERAL.—Provisional noncustodial removal proceedings shall commence under this section with respect to an alien immediately after the Secretary properly serves a notice of removal proceedings on the alien.

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

''(2) SERVICE AND NOTICE OF INTERVIEW REQUIREMENTS.—In provisional noncustodial removal proceedings conducted under this section, the Secretary shall—

''(A) serve notice to the alien or, if personal service is not practicable, to the alien's counsel of record;

''(B) ensure that such notice, to the maximum extent practicable, is in the alien's native language or in a language the alien understands; and

''(C) include in such notice—

''(i) the nature of the proceedings against the alien;

''(ii) the legal authority under which such proceedings will be conducted; and

''(iii) the charges against the alien and the statutory provisions the alien is alleged to have violated;

''(D) inform the alien of his or her obligation—

''(i) to immediately provide (or have provided) to the Secretary, in writing, the mailing address, contact information, email address or other electronic address, and telephone number (if any), at which the alien may be contacted respecting the proceeding under this section; and

''(ii) to provide to the Secretary, in writing, any change of the alien's mailing address or telephone number shortly after any such change;

''(E) include in such notice—

''(i) the time and place at which the proceeding under this section will be held, which shall be communicated, to the extent practicable, before or during the alien's release from physical custody; or

''(ii) immediately after release, the time and place of such proceeding, which shall be provided not later than 10 days before the scheduled protection determination interview and shall be considered proper service of the commencement of proceedings; and

''(F) inform the alien of—

''(i) the consequences to which the alien would be subject pursuant to section 240(b)(5) if the alien fails to appear at such proceeding, absent exceptional circumstances;

''(ii) the alien's right to be represented, at no expense to the Federal Government, by any counsel or accredited representative selected by the alien who is authorized to represent an alien in such a proceeding; and

''(G) the information described in section 235(b)(1)(B)(iv)(II).

''(3) PROTECTION DETERMINATION.—

''(A) IN GENERAL.—To the maximum extent practicable, within 90 days after the date on which an alien is referred for proceedings under this section, an asylum officer shall conduct a protection determination of such alien in person or through a technology appropriate for protection determinations.

''(B) ACCESS TO COUNSEL.—In any proceeding under this section or section 240D before U.S. Citizenship and Immigration Services and in any appeal of the result of such a proceeding, an alien shall have the privilege of being represented, at no expense to the Federal Government, by counsel authorized to represent an alien in such a proceeding.

''(C) PROCEDURES AND EVIDENCE.—The asylum officer may receive into evidence any oral or written statement that is material and relevant to any matter in the protection determination. The testimony of the alien shall be under oath or affirmation administered by the asylum officer.

''(D) INTERPRETERS.—Whenever necessary, the asylum officer shall procure the assistance of an interpreter, to the maximum extent practicable, in the alien's native language or in a language the alien understands, during any protection determination.

''(E) LOCATION.—

''(i) IN GENERAL.—Any protection determination authorized under this section shall occur in—

''(I) a U.S. Citizenship and Immigration Services office;

''(II) a facility managed, leased, or operated by U.S. Citizenship and Immigration Services;

''(III) any other location designated by the Director of U.S. Citizenship and Immigration Services; or

''(IV) any other federally owned or federally leased building that—

''(aa) the Director has authorized or entered into a memorandum of agreement to be used for such purpose; and

''(bb) meets the special rules under clause (ii) and the minimum requirements under clause (iii).

''(ii) SPECIAL RULES.—

''(I) LOCATION.—A protection determination may not be conducted in a facility that is managed, leased, owned, or operated by U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection.

''(II) REASONABLE TIME.—The Secretary shall ensure that a protection determination is conducted during a reasonable time of the day.

''(III) GEOGRAPHICAL LIMITATION.—The Secretary shall ensure that each protection determination for an alien is scheduled at a facility that is a reasonable distance from the current residence of such alien.

''(IV) PROTECTION FOR CHILDREN.—In the case of a family unit, the Secretary shall ensure that the best interests of the child or children are considered when conducting a protection determination of the child's family unit.

''(iii) MINIMUM LOCATION REQUIREMENT.—Each facility that the Director authorizes to be used to conduct protection determinations shall—

''(I) have adequate security measures to protect Federal employees, aliens, and beneficiaries for benefits; and

''(II) ensure the best interests of the child or children are prioritized pursuant to clause (ii)(IV) if such children are present at the protection determination.

''(F) WRITTEN RECORD.—The asylum officer shall prepare a written record of each protection determination, which—

''(i) shall be provided to the alien, or to the alien's counsel of record, upon a decision; and

''(ii) shall include—

''(I) a summary of the material facts stated by the alien;

''(II) any additional facts relied upon by the asylum officer;

''(III) the asylum officer's analysis of why, in the light of the facts referred to in subclauses (I) and (II), the alien has or has not established a positive or negative outcome from the protection determination; and

''(IV) a copy of the asylum officer's interview notes.

''(G) RESCHEDULING.—

''(i) IN GENERAL.—The Secretary shall promulgate regulations that permit an alien to reschedule a protection determination in the event of exceptional circumstances.

''(ii) TOLLING OF TIME LIMITATION.—If an interview is rescheduled at the request of an alien, the period between the date on which the protection determination was originally scheduled and the date of the rescheduled interview shall not count toward the 90-day period referred to in subsection (a)(6).

''(H) WITHDRAWAL OF APPLICATION, VOLUNTARY DEPARTURE, AND VOLUNTARY REPATRIATION.—

''(i) VOLUNTARY DEPARTURE.—The Secretary may permit an alien to voluntarily depart in accordance with section 240E.

''(ii) WITHDRAWAL OF APPLICATION.—The Secretary may permit an alien, at any time before the protection merits interview, to withdraw his or her application and depart immediately from the United States in accordance with section 240F.

''(iii) VOLUNTARY REPATRIATION.—The Secretary may permit an alien to voluntarily repatriate in accordance with section 240G.

''(I) CONVERSION TO REMOVAL PROCEEDINGS UNDER SECTION 240.—The asylum officer or immigration officer may refer or place an alien into removal proceedings under section 240 by issuing a notice to appear for the purpose of initiating such proceedings if either such officer determines that—

''(i) such proceedings are required in order to permit the alien to seek an immigration benefit for which the alien is legally entitled to apply; and

''(ii) such application requires such alien to be placed in, or referred to proceedings under section 240 that are not available to such alien under this section.

''(J) PROTECTION OF INFORMATION.—

''(i) SENSITIVE OR LAW ENFORCEMENT INFORMATION.—Nothing in this section may be construed to compel any employee of the Department of Homeland Security to disclose any information that is otherwise protected from disclosure by law.

''(ii) PROTECTION OF CERTAIN INFORMATION.—Before providing the record described in subparagraph (F) to the alien or to the alien's counsel of record, the Director shall protect any information that is prohibited by law from being disclosed.

''(c) PROTECTION DETERMINATION.—

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

''(2) IN GENERAL.—

''(A) ELIGIBILITY.—Upon the establishing the identity of an alien pursuant to paragraph (1), the asylum officer shall conduct a protection determination in a location selected in accordance with this section.

''(B) OUTCOME.—

''(i) POSITIVE PROTECTION DETERMINATION OUTCOME.—If the protection determination conducted pursuant to subparagraph (A) results in a positive protection determination outcome, the alien shall be referred to protection merits removal proceedings in accordance with the procedures described in paragraph (4).

''(ii) NEGATIVE PROTECTION DETERMINATION OUTCOME.—If such protection determination results in a negative protection determination outcome, the alien shall be subject to the process described in subsection (d).

''(3) RECORD.—

''(A) USE OF RECORD.—In each protection determination, or any review of such determination, the record of the alien's protection determination required under subsection (b)(3)(F) shall constitute the underlying application for the alien's application for asylum, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture for purposes of the protection merits interview.

''(B) DATE OF FILING.—The date on which the Secretary issues a notification of a positive protection determination pursuant to paragraph (2)(B)(i) shall be considered, for all purposes, the date of filing and the date of receipt of the alien's application for asylum, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture, as applicable.

''(4) REFERRAL FOR PROTECTION MERITS REMOVAL PROCEEDINGS.—

''(A) IN GENERAL.—If the alien receives a positive protection determination—

''(i) the alien shall be issued employment authorization pursuant to section 235C; and

''(ii) subject to paragraph (5), the asylum officer shall refer the alien for protection merits removal proceedings described in section 240D.

''(B) NOTIFICATIONS.—As soon as practicable after a positive protection determination, the Secretary shall—

''(i) issue a written notification to the alien of the outcome of such determination;

''(ii) include all of the information described in subsection (b)(2); and

''(iii) ensure that such notification and information concerning the procedures under section 240D, shall be made, at a minimum, not later than 30 days before the date on which the required protection merits interview under section 240D occurs.

''(5) AUTHORITY TO GRANT RELIEF OR PROTECTION.—

''(A) IN GENERAL.—If an alien demonstrates, by clear and convincing evidence, that the alien is eligible for asylum, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture during the protection determination, the asylum officer, subject to the procedures under subparagraph (B), may grant an application for such relief or protection submitted by such alien without referring the alien to protection merits removal proceedings under section 240D.

''(B) SUPERVISORY REVIEW.—

''(i) IN GENERAL.—An application granted by an asylum officer under subparagraph (A) shall be reviewed by a supervisory asylum officer to determine whether such grant is warranted.

''(ii) LIMITATION.—A decision by an asylum officer to grant an application under subparagraph (A) shall not be final, and the alien shall not be notified of such decision, unless a supervisory asylum officer first determines, based on the review conducted pursuant to clause (i), that such a grant is warranted.

''(iii) EFFECT OF APPROVAL.—If the supervisor determines that granting an alien's application for relief or protection is warranted—

''(I) such application shall be approved; and

''(II) the alien shall receive written notification of such decision as soon as practicable.

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

''(C) SPECIAL RULES.—Notwithstanding any other provision of law—

''(i) if an alien's application for asylum is approved pursuant to subparagraph (B)(iii), the asylum officer may not issue an order of removal; and

''(ii) if an alien's application for withholding of removal under section 241(b)(3) or for withholding or deferral of removal under the Convention Against Torture is approved pursuant to subparagraph (B)(iii), the asylum officer shall issue a corresponding order of removal.

''(D) BIANNUAL REPORT.—The Director shall submit a biannual report to the relevant committees of Congress that includes, for the relevant period—

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

''(ii) the number of cases described in clause (i) that were approved subsequent to the referral to a supervisor pursuant to subparagraph (B);

''(iii) the number of cases described in clause (i) that were not approved subsequent to the referral to a supervisor pursuant to subparagraph (B);

''(iv) a summary of the benefits for which any aliens described in subparagraph (A) were considered amenable and whose cases were referred to a supervisor pursuant to subparagraph (B), disaggregated by case outcome referred to in clauses (ii) and (iii);

''(v) a description of any anomalous case outcomes for aliens described in subparagraph (A) whose cases were referred to a supervisor pursuant subparagraph (B); and

''(vi) a description of any actions taken to remedy the anomalous case outcomes referred to in clause (v).

''(E) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In preparing each report pursuant to subparagraph (D), the Director shall—

''(i) protect any personally identifiable information associated with aliens described in subparagraph (A); and

''(ii) comply with all applicable privacy laws.

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

''(d) NEGATIVE PROTECTION DETERMINATION.—

''(1) IN GENERAL.—If an alien receives a negative protection determination, the asylum officer shall—

''(A) provide such alien with written notification of such determination; and

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

''(2) OPPORTUNITY TO REQUEST RECONSIDERATION OR APPEAL.—The Secretary shall notify any alien described in paragraph (1) immediately after receiving notification of a negative protection determination under this subsection that he or she—

''(A) may request reconsideration of such determination in accordance with paragraph (3); and

''(B) may request administrative review of such protection determination decision in accordance with paragraph (4).

''(3) REQUEST FOR RECONSIDERATION.—

''(A) IN GENERAL.—Any alien with respect to whom a negative protection determination has been made may submit a request for reconsideration to U.S. Citizenship and Immigration Services not later than 5 days after such determination.

''(B) DECISION.—The Director, or designee, in the Director's unreviewable discretion, may grant or deny a request for reconsideration made pursuant to subparagraph (A), which decision shall not be subject to review.

''(4) ADMINISTRATIVE REVIEW.—

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

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

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

''(D) STANDARD OF REVIEW.—In accordance with the procedures prescribed by the Secretary, the Protection Appellate Board, upon the request of an alien, or the alien's counsel of record, shall conduct a de novo review of the record of the protection determination carried out pursuant to this section with respect to the alien.

''(E) DETERMINATION.—

''(i) TIMING.—The Protection Appellate Board shall complete a review under this paragraph, to the maximum extent practicable, not later than 72 hours after receiving a request from an alien pursuant to subparagraph (D).

''(ii) EFFECT OF POSITIVE DETERMINATION.—If, after conducting a review under this paragraph, the Protection Appellate Board determines that an alien has a positive protection determination, the alien shall be referred for protection merits removal proceedings under section 240D.

''(iii) EFFECT OF NEGATIVE DETERMINATION.—If, after conducting a review under this paragraph, the Protection Appellate Board determines that an alien has a negative protection determination, the alien shall be ordered removed from the United States without additional review.

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

''(e) SERVICE OF PROTECTION DETERMINATION DECISION.—

''(1) PROTECTION DETERMINATION DECISION.—

''(A) IN GENERAL.—Upon reaching a decision regarding a protection determination, the Secretary shall—

''(i) immediately notify the alien, and the alien's counsel of record, if applicable, that a determination decision has been made; and

''(ii) schedule the service of the protection determination decision, which shall take place, to the maximum extent practicable, not later than 5 days after such notification.

''(B) SPECIAL RULES.—

''(i) LOCATION.—Each service of a protection determination decision scheduled pursuant to subparagraph (A)(ii) may occur at—

''(I) a U.S. Immigration and Customs Enforcement facility;

''(II) an Immigration Court; or

''(III) any other federally owned or federally leased building that—

''(aa) the Secretary has authorized or entered into a memorandum of agreement to be used for such purpose; and

''(bb) meets the minimum requirements under this subparagraph.

''(ii) MINIMUM REQUIREMENTS.—In conducting each service of a protection determination decision, the Director shall ensure compliance with the requirements set forth in clauses (ii)(II), (ii)(III), (ii)(IV), and (iii) of subsection (b)(3)(E).

''(2) PROCEDURES FOR SERVICE OF PROTECTION DETERMINATION DECISIONS.—

''(A) WRITTEN DECISION.—The Secretary shall ensure that each alien and the alien's counsel of record, if applicable, attending a determination decision receives a written decision that includes, at a minimum, the articulated basis for the denial of the protection benefit sought by the alien.

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

''(i) the alien's native language, to the maximum extent practicable; or

''(ii) another language the alien understands.

''(C) ACCESS TO COUNSEL.—An alien who has obtained the services of counsel shall be represented by such counsel, at no expense to the Federal Government, at the service of the protection determination. Nothing in this subparagraph may be construed to create a substantive due process right or to unreasonably delay the scheduling of the service of the protection determination.

''(D) ASYLUM OFFICER.—A protection determination decision may only be served by an asylum officer.

''(E) PROTECTIONS FOR ASYLUM OFFICER DECISIONS BASED ON THE MERITS OF THE CASE.—The Secretary may not impose restrictions on an asylum officer's ability to grant or deny relief sought by an alien in a protection determination or protection merits interview based on a numerical limitation.

''(3) NEGATIVE PROTECTION DETERMINATION.—

''(A) ADVISEMENT OF RIGHTS AND OPPORTUNITIES.—If an alien receives a negative protection determination decision, the asylum officer shall—

''(i) advise the alien if an alternative option of return is available to the alien, including—

''(I) voluntary departure;

''(II) withdrawal of the alien's application for admission; or

''(III) voluntary repatriation; and

''(ii) provide written or verbal information to the alien regarding the process, procedures, and timelines for appealing such denial, to the maximum extent practicable, in the alien's native language, or in a language the alien understands.

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

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

''(f) FAILURE TO CONDUCT PROTECTION DETERMINATION.—

''(1) IN GENERAL.—If the Secretary fails to conduct a protection determination for an alien during the 90-day period set forth in subsection (b)(3)(A), such alien shall be referred for protection merits removal proceedings in accordance with 240D.

''(2) NOTICE OF PROTECTION MERITS INTERVIEW.—

''(A) IN GENERAL.—If an alien is referred for protection merits removal proceedings pursuant to paragraph (1), the Secretary shall properly file with U.S. Citizenship and Immigration Services and serve upon the alien, or the alien's counsel of record, a notice of a protection merits interview, in accordance with subsection (b)(2).

''(B) CONTENTS.—Each notice of protection merits interview served pursuant to subparagraph (A)—

''(i) shall include each element described in subsection (b)(2); and

''(ii) shall—

''(I) inform the alien that an application for protection relief shall be submitted to the Secretary not later than 30 days before the date on which the alien's protection merits interview is scheduled;

''(II) inform the alien that he or she shall receive employment authorization, pursuant to section 235C, not later than 30 days after filing the application required under subclause (I);

''(III) inform the alien that he or she may submit evidence into the record not later than 30 days before the date on which the alien's protection merits interview is scheduled;

''(IV) describe—

''(aa) the penalties resulting from the alien's failure to file the application required under subclause (I); and

''(bb) the terms and conditions for redressing such failure to file; and

''(V) describe the penalties resulting from the alien's failure to appear for a scheduled protection merits interview.

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

''(4) EFFECT OF FAILURE TO FILE.—

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

''(B) OPPORTUNITY FOR REDRESS.—

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

''(ii) CONTENTS.—Each application submitted pursuant to clause (i) shall—

''(I) describe the basis for such request;

''(II) include supporting evidence; and

''(III) identify the exceptional circumstances that led to the alien's failure to file the application for protection relief in a timely manner.

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

''(i) shall determine whether such request rises to the level of exceptional circumstances; and

''(ii) may schedule a protection determination interview.

''(5) EMPLOYMENT AUTHORIZATION.—

''(A) IN GENERAL.—Employment authorization shall be provided to aliens described in this subsection in accordance with section 235C.

''(B) REVOCATION.—The Secretary may revoke the employment authorization provided to any alien processed under this section or section 240D if such alien—

''(i) has obtained authorization for employment pursuant to the procedures described in section 235C; and

''(ii) absent exceptional circumstances, subsequently fails to appear for a protection determination under subsection (b)(3) or a protection merits interview under 240D(c)(3).

''(g) FAILURE TO APPEAR.—

''(1) PROTECTION MERITS INTERVIEW.—The provisions of section 240(b)(5) shall apply to proceedings under this section.

''(2) OPPORTUNITY TO REDRESS.—

''(A) IN GENERAL.—Not later than 15 days after the date on which an alien fails to appear for a scheduled protection determination or protection merits interview, the alien may submit a written request for a rescheduled protection determination or protection merits interview.

''(B) CONTENTS.—Each request submitted pursuant to subparagraph (A) shall—

''(i) describe the basis for such request;

''(ii) include supporting evidence; and

''(iii) identify the exceptional circumstances that led to the alien's failure to appear.

''(C) DECISION.—In evaluating a request submitted pursuant to subparagraph (A), the Director, or designee shall determine whether the evidence included in such request rises to the level of exceptional circumstances. Such decision shall not be reviewable.

''(h) RULEMAKING.—

''(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this section in compliance with the requirements of section 553 of title 5, United States Code.

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

''(3) REQUIREMENT.—All regulations promulgated to implement this section beginning on the date that is 180 days after the date of the enactment of this section, shall be issued pursuant to the requirements set forth in section 553 of title 5, United States Code.

''(i) SAVINGS PROVISIONS.—

''(1) EXPEDITED REMOVAL.—Nothing in this section may be construed to expand or restrict the Secretary's discretion to carry out expedited removals pursuant to section 235 to the extent authorized by law. The Secretary shall not refer or place an alien in proceedings under section 235 if the alien has already been placed in or referred to proceedings under this section or section 240D.

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

''(3) SETTLEMENT AGREEMENTS.—Nothing in this section may be construed—

''(A) to expand or restrict any settlement agreement in effect as of the date of the enactment of this section; or

''(B) to abrogate any provision of the stipulated settlement agreement in Reno v. Flores, as filed in the United States District Court for the Central District of California on January 17, 1997 (CV–85–4544–RJK), including all subsequent court decisions, orders, agreements, and stipulations.

''(4) IMPACT ON OTHER REMOVAL PROCEEDINGS.—The provisions of this section may not be interpreted to apply to any other form of removal proceedings.

''(5) SPECIAL RULE.—For aliens who are natives or citizens of Cuba released pursuant to this section and who are otherwise eligible for adjustment of status under the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the 'Cuban Adjustment Act'), the requirement that an alien has been inspected and admitted or paroled into the United States shall not apply. Aliens who are natives or citizens of Cuba or Haiti and have been released pursuant to section 240 (8 U.S.C. 1229) shall be considered to be individuals described in section 501(e)(1) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

''(6) REVIEW OF PROTECTION DETERMINATIONS.—Except for reviews of constitutional claims, no court shall have jurisdiction to review a protection determination issued by U.S. Citizenship and Immigration Services under this section.

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

''(j) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, judicial review of any decision or action in this section shall be governed only by the United States District Court for the District of Columbia, which shall have sole and original jurisdiction to hear challenges, whether constitutional or otherwise, to the validity of this section or any written policy directive, written policy guideline, written procedure, or the implementation thereof, issued by or under the authority of the Secretary to implement this section.

''(k) REPORTS ON ASYLUM OFFICER GRANT RATES.—

''(1) PUBLICATION OF ANNUAL REPORT.—Not later than 1 year after the date of the enactment of the Border Act, and annually thereafter, the Director of U.S. Citizenship and Immigration Services shall publish a report, on a publicly accessible website of U.S. Citizenship and Immigration Services, which includes, for the reporting period—

''(A) the number of protection determinations that were approved or denied; and

''(B) a description of any anomalous incidents identified by the Director, including any action taken by the Director to address such an incident.

''(2) SEMIANNUAL REPORT TO CONGRESS.—

''(A) IN GENERAL.—Not less frequently than twice each year, the Director of U.S. Citizenship and Immigration Services shall submit a report to the relevant committees of Congress that includes, for the preceding reporting period, and aggregated for the applicable calendar year—

''(i) the number of cases in which a protection determination or protection merits interview has been completed; and

''(ii) for each asylum office or duty station to which more than 20 asylum officers are assigned—

''(I) the median percentage of positive determinations and protection merits interviews in the cases described in clause (i);

''(II) the mean percentage of negative determinations and protection merits interviews in such cases; and

''(III) the number of cases described in subsection (c)(5) in which an alien was referred to a supervisor after demonstrating, by clear and convincing evidence, eligibility for asylum, withholding of removal, or protection under the Convention Against Torture, disaggregated by benefit type;

''(IV) the number of cases described in clause (i) that were approved by a supervisor; and

''(V) the number of cases described in clause (i) that were not approved by a supervisor.

''(B) PRESENTATION OF DATA.—The information described in subparagraph (A) shall be provided in the format of aggregate totals by office or duty station.

''(l) DEFINITIONS.—In this section:

''(1) APPLICATION FOR PROTECTION RELIEF.—The term 'application for protection relief' means any request, application or petition authorized by the Secretary for asylum, withholding of removal, or protection under the Convention Against Torture.

''(2) ASYLUM OFFICER.—The term 'asylum officer' has the meaning given such term in section 235(b)(1)(E).

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

''(4) DIRECTOR.—The term 'Director' means the Director of U.S. Citizenship and Immigration Services.

''(5) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' has the meaning given such term in section 240(e)(1).

''(6) FINAL ORDER OF REMOVAL.—The term 'final order of removal' means an order of removal made by an asylum officer at the conclusion of a protection determination, and any appeal of such order, as applicable.

''(7) PROTECTION APPELLATE BOARD.—The term 'Protection Appellate Board' means the Protection Appellate Board established under section 463 of the Homeland Security Act of 2002.

''(8) PROTECTION DETERMINATION DECISION.—The term 'protection determination decision' means the service of a negative or positive protection determination outcome.

''(9) RELEVANT COMMITTEES OF CONGRESS.—The term 'relevant committees of Congress' means—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on the Judiciary of the Senate;

''(C) the Committee on Appropriations of the Senate;

''(D) the Committee on Homeland Security of the House of Representatives;

''(E) the Committee on the Judiciary of the House of Representatives;

''(F) the Committee on Appropriations of the House of Representatives; and

''(G) the Committee on Oversight and Accountability of the House of Representatives.

''(10) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.''.

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

''Sec. 235B. Provisional noncustodial removal proceedings.''.

SEC. 4142. PROTECTION MERITS REMOVAL PROCEEDINGS.

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

''SEC. 240D. PROTECTION MERITS REMOVAL PROCEEDINGS.

''(a) COMMENCEMENT OF PROCEEDINGS.—Removal proceedings under this section shall commence immediately after the Secretary properly serves notice on an alien who was—

''(1) processed under section 235B and referred under subsection (c)(4) of that section after having been issued a notice of a positive protection determination under such subsection; or

''(2) referred under section 235B(f).

''(b) DURATION OF PROCEEDINGS.—To the maximum extent practicable, proceedings under this section shall conclude not later than 90 days after the date on which such proceedings commence.

''(c) PROCEDURES.—

''(1) SERVICE AND NOTICE REQUIREMENTS.—Upon the commencement of proceedings under this section, the Secretary shall provide notice of removal proceedings to the alien, or if personal service is not practicable, to the alien's counsel of record. Such notice shall be provided, to the maximum extent practicable, in the alien's native language, or in a language the alien understands, and shall specify or provide—

''(A) the nature of the proceedings against the alien;

''(B) the legal authority under which such proceedings will be conducted;

''(C) the charges against the alien and the statutory provisions alleged to have been violated by the alien;

''(D) that the alien shall—

''(i) immediately provide (or have provided) to the Secretary, in writing, the mailing address, contact information, email address or other electronic address, and telephone number (if any) at which the alien may be contacted respecting the proceeding under this section; and

''(ii) provide to the Secretary, in writing, any change of the alien's mailing address or telephone number after any such change;

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

''(ii) immediately after release, the time and place of such proceeding shall be provided to the alien, or to the alien's counsel of record, not later than 10 days before the scheduled protection determination interview, which shall be considered proper service of the commencement of proceedings;

''(F) the consequences for the alien's failure to appear at such proceeding pursuant to section 240(b)(5)(A), absent exceptional circumstances;

''(G) the alien's right to be represented, at no expense to the Federal Government, by any counsel, or an accredited representative, selected by the alien who is authorized to practice in such a proceeding; and

''(H) information described in section 235(b)(1)(B)(iv)(II).

''(2) ALTERNATIVES TO DETENTION.—An adult alien, including a head of household, who has been referred for proceedings under this section, shall be supervised under the Alternatives to Detention program of U.S. Immigration and Customs Enforcement for the duration of such proceedings.

''(3) PROTECTION MERITS INTERVIEW.—

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

''(B) ACCESS TO COUNSEL.—Section 235B(b)(3)(B) shall apply to proceedings under this section.

''(C) PROCEDURES AND EVIDENCE.—The asylum officer may receive into evidence any oral or written statement that is material and relevant to any matter in the protection merits interview. The testimony of the alien shall be under oath or affirmation, which shall be administered by the asylum officer.

''(D) TRANSLATION OF DOCUMENTS.—Any foreign language document offered by a party in proceedings under this section shall be accompanied by an English language translation and a certification signed by the translator, which shall be printed legibly or typed. Such certification shall include a statement that the translator is competent to translate the document, and that the

translation is true and accurate to the best of the translator's abilities.

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

''(F) LOCATION.—The location for the protection merits interview described in this section shall be determined in accordance with the terms and conditions described in section 235B(b)(3)(E).

''(G) WRITTEN RECORD.—The asylum officer shall prepare a written record of each protection merits interview, which shall be provided to the alien or the alien's counsel, that includes—

''(i) a summary of the material facts stated by the alien;

''(ii) any additional facts relied upon by the asylum officer;

''(iii) the asylum officer's analysis of why, in light of the facts referred to in clauses (i) and (ii), the alien has or has not established eligibility for asylum under section 208, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture; and

''(iv) a copy of the asylum officer's interview notes.

''(H) PROTECTION OF CERTAIN INFORMATION.—Before providing the record described in subparagraph (G) to the alien or the alien's counsel of record, the Director shall protect any information the disclosure of which is prohibited by law.

''(I) RULEMAKING.—The Secretary shall promulgate regulations that permit an alien to request a rescheduled interview due to exceptional circumstances.

''(J) WITHDRAWAL OF APPLICATION, VOLUNTARY DEPARTURE, AND VOLUNTARY REPATRIATION.—

''(i) VOLUNTARY DEPARTURE.—The Secretary may permit an alien to voluntarily depart in accordance with section 240E.

''(ii) WITHDRAWAL OF APPLICATION.—The Secretary may permit an alien, at any time before the protection merits interview, to withdraw his or her application and depart immediately from the United States in accordance with section 240F.

''(iii) VOLUNTARY REPATRIATION.—The Secretary may permit an alien to voluntarily repatriate in accordance with section 240G.

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

''(5) TIMING OF PROTECTION MERITS INTERVIEW.—A protection merits interview may not be conducted on a date that is earlier than 30 days after the date on which notice is served under paragraph (1).

''(d) PROTECTION MERITS DETERMINATION.—

''(1) IN GENERAL.—After conducting an alien's protection merits interview, the asylum officer shall make a determination on the merits of the alien's application for asylum under section 208, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture.

''(2) POSITIVE PROTECTION MERITS DETERMINATION.—In the case of an alien who the asylum officer determines meets the criteria for a positive protection merits determination, the asylum officer shall approve the alien's application for asylum under section 208, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture.

''(3) NEGATIVE PROTECTION MERITS DETERMINATION.—

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

''(i) the asylum officer shall deny the alien's application for asylum under section 208, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture; and

''(ii) the Secretary shall—

''(I) provide the alien with written notice of the decision; and

''(II) subject to subparagraph (B) and subsection (e), order the removal of the alien from the United States.

''(B) REQUEST FOR RECONSIDERATION.—Any alien with respect to whom a negative protection merits determination has been made may submit a request for reconsideration to U.S. Citizenship and Immigration Services not later than 5 days after such determination, in accordance with the procedures set forth in section 235B(d)(3).

''(e) APPEALS.—

''(1) IN GENERAL.—An alien with respect to whom a negative protection merits determination has been made may submit to the Protection Appellate Board a written petition for review of such determination, together with additional evidence supporting the alien's claim, as applicable, not later than 7 days after the date on which a request for reconsideration under subsection (d)(3)(B) has been denied.

''(2) SWORN STATEMENT.—A petition for review submitted under this subsection shall include a sworn statement by the alien.

''(3) RESPONSIBILITIES OF THE DIRECTOR.—

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

''(i) refer the alien's petition for review to the Protection Appellate Board; and

''(ii) before the date on which the Protection Appellate Board commences review, subject to subparagraph (B), provide a full record of the alien's protection merits interview, including a transcript of such interview—

''(I) to the Protection Appellate Board; and

''(II) to the alien, or the alien's counsel of record.

''(B) PROTECTION OF CERTAIN INFORMATION.—Before providing the record described in subparagraph (A)(ii)(II) to the alien or the alien's counsel of record, the Director shall protect any information the disclosure of which is prohibited by law.

''(4) STANDARD OF REVIEW.—

''(A) IN GENERAL.—In reviewing a protection merits determination under this subsection, the Protection Appellate Board shall—

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

''(ii) with respect to questions of law, discretion, and judgement, make a de novo determination with respect to the alien's eligibility for relief or protection.

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

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

''(6) OPPORTUNITY TO SUPPLEMENT.—The Protection Appellate Board shall establish a process by which an alien, or the alien's counsel of record, may supplement the record for purposes of a review under this subsection not less than 30 days before the Protection Appellate Board commences the review.

''(7) RESULT OF REVIEW.—

''(A) VACATUR OF ORDER OF REMOVAL.—In the case of a determination by the Protection Appellate Board that the application of an alien for asylum warrants approval, the Protection Appellate Board shall vacate the order of removal issued by the asylum officer and grant such application.

''(B) WITHHOLDING OF REMOVAL AND CONVENTION AGAINST TORTURE ORDER OF REMOVAL.—In the case of a determination by the Protection Appellate Board that the application of an alien for withholding of removal under section 241(b)(3) or protection under the Convention Against Torture warrants approval, the Protection Appellate Board—

''(i) shall not vacate the order of removal issued by the asylum officer; and

''(ii) shall grant the application for withholding of removal under section 241(b)(3) or protection under the Convention Against Torture, as applicable.

''(C) AFFIRMATION OF ORDER OF REMOVAL.—In the case of a determination by the Protection Appellate Board that the petition for review of a protection merits interview does not warrant approval, the Protection Appellate Board shall affirm the denial of such application and the order of removal shall become final.

''(D) NOTIFICATION.—Upon making a determination with respect to a review under this subsection, the Protection Appellate Board shall expeditiously provide notice of the determination to the alien and, as applicable, to the alien's counsel of record.

''(8) MOTION TO REOPEN OR MOTION TO RECONSIDER.—

''(A) MOTION TO REOPEN.—A motion to reopen a review conducted by the Protection Appellate Board shall state new facts and shall be supported by documentary evidence. The resubmission of previously provided evidence or reassertion of previously stated facts shall not be sufficient to meet the requirements of a motion to reopen under this subparagraph. An alien with a pending motion to reopen may be removed if the alien's order of removal is final, pending a decision on a motion to reopen.

''(B) MOTION TO RECONSIDER.—

''(i) IN GENERAL.—A motion to reconsider a decision of the Protection Appellate Board—

''(I) shall establish that—

''(aa) the Protection Appellate Board based its decision on an incorrect application of law or policy; and

''(bb) the decision was incorrect based on the evidence in the record of proceedings at the time of the decision; and

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

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

''(f) ORDER OF REMOVAL.—

''(1) IN GENERAL.—The Secretary—

''(A) shall have exclusive and final jurisdiction over the denial of an application for relief or protection under this section; and

''(B) may remove an alien to a country where the alien is a subject, national, or citizen, or in the case of an alien having no nationality, the country of the alien's last habitual residence, or in accordance with the processes established under section 241, unless removing the alien to such country would be prejudicial to the interests of the United States.

''(2) DETENTION; REMOVAL.—The terms and conditions under section 241 shall apply to the detention and removal of aliens ordered removed from the United States under this section.

''(g) LIMITATION ON JUDICIAL REVIEW.—

''(1) DENIALS OF PROTECTION.—Except for review of constitutional claims, no court

shall have jurisdiction to review a decision issued by U.S. Citizenship and Immigration Services under this section denying an alien's application for asylum under section 208, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture.

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

''(h) RULEMAKING.—

''(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this section in compliance with the requirements of section 553 of title 5, United States Code.

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

''(3) REQUIREMENT.—All regulations promulgated to implement this section beginning on the date that is 180 days after the date of the enactment of this section, shall be issued pursuant to the requirements set forth in section 553 of title 5, United States Code.

''(i) SAVINGS PROVISIONS.—

''(1) DETENTION.—Nothing in this section may be construed to affect the authority of the Secretary to detain an alien who is processed, including for release, under this section if otherwise authorized by law.

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

''(A) to expand or restrict any settlement agreement in effect on the date of the enactment of this section; or

''(B) to abrogate any provision of the stipulated settlement agreement in Reno v. Flores, as filed in the United States District Court for the Central District of California on January 17, 1997 (CV–85–4544–RJK), including all subsequent court decisions, orders, agreements, and stipulations.

''(3) IMPACT ON OTHER REMOVAL PROCEEDINGS.—The provisions of this section may not be interpreted to apply to any other form of removal proceedings.

''(4) CONVERSION TO REMOVAL PROCEEDINGS UNDER SECTION 240.—The asylum officer or immigration officer may refer or place an alien into removal proceedings under section 240 by issuing a notice to appear for the purpose of initiating such proceedings if either such officer determines that—

''(A) such proceedings are required in order to permit the alien to seek an immigration benefit for which the alien is legally entitled to apply; and

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

''(j) FAMILY UNITY.—In the case of an alien with a minor child in the United States who has been ordered removed pursuant to this section, the Secretary shall ensure that such alien is removed with the minor child, if the alien elects.

''(k) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, judicial review of any decision or action in this section shall be governed only by the United States District Court for the District of Columbia, which shall have sole and original jurisdiction to hear challenges, whether constitutional or otherwise, to the validity of this section or any written policy directive, written policy guideline, written procedure, or the implementation thereof, issued by or under the authority of the Secretary to implement this section.

''(l) DEFINITIONS.—In this section:

''(1) ASYLUM OFFICER.—The term 'asylum officer' has the meaning given such term in section 235(b)(1)(E).

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

''(3) DIRECTOR.—The term 'Director' means the Director of U.S. Citizenship and Immigration Services.

''(4) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' has the meaning given such term in section 240(e)(1).

''(5) FINAL ORDER OF REMOVAL.—The term 'final order of removal' means an order of removal made by an asylum officer at the conclusion of a protection determination, and any appeal of such order, as applicable.

''(6) PROTECTION APPELLATE BOARD.—The term 'Protection Appellate Board' means the Protection Appellate Board established under section 463 of the Homeland Security Act of 2002.

''(7) PROTECTION DETERMINATION DECISION.—The term 'protection determination decision' means the service of a negative or positive protection determination outcome.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.''.

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

''Sec. 240D. Protection merits removal proceedings.''.

SEC. 4143. VOLUNTARY DEPARTURE AFTER NONCUSTODIAL PROCESSING; WITHDRAWAL OF APPLICATION FOR ADMISSION.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), as amended by section 4142(a), is further amended by inserting after section 240D the following:

''SEC. 240E. VOLUNTARY DEPARTURE AFTER NONCUSTODIAL PROCESSING.

''(a) CONDITIONS.—

''(1) IN GENERAL.—The Secretary of Homeland Security (referred to in this section as the 'Secretary') may permit an alien to voluntarily depart the United States under this subsection, at the alien's own expense, instead of being subject to proceedings under section 235B or 240D or before the completion of such proceedings, if such alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a).

''(2) PERIOD OF VALIDITY.—Permission to depart voluntarily under this subsection shall be valid for a period not to exceed 120 days.

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

''(b) AT CONCLUSION OF PROCEEDINGS.—

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

''(A) enters an order granting voluntary departure instead of removal; and

''(B) determines that the alien—

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

''(ii) is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

''(iii) is not deportable under paragraph (2)(A)(iii) or (4) of section 237(a); and

''(iv) has established, by clear and convincing evidence, that he or she has the means to depart the United States and intends to do so.

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

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

''(d) CIVIL PENALTY FOR FAILURE TO DEPART.—

''(1) IN GENERAL.—Subject to paragraph (2), an alien who was permitted to voluntarily depart the United States under this section and fails to voluntarily depart within the period specified by the Secretary—

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

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

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

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

''(e) ADDITIONAL CONDITIONS.—The Secretary may prescribe regulations that limit eligibility for voluntary departure under this section for any class of aliens. No court may review any regulation issued under this subsection.

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

''(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect any voluntary departure relief in any other section of this Act.

''SEC. 240F. WITHDRAWAL OF APPLICATION FOR ADMISSION.

''(a) WITHDRAWAL AUTHORIZED.—The Secretary of Homeland Security (referred to in this section as the 'Secretary'), in the discretion of the Secretary, may permit any alien for admission to withdraw his or her application—

''(1) instead of being placed into removal proceedings under section 235B or 240D; or

''(2) at any time before the alien's protection merits interview occurs under section 240D.

''(b) CONDITIONS.—An alien's decision to withdraw his or her application for admission under subsection (a) shall be made voluntarily. Permission to withdraw an application for admission may not be granted unless the alien intends and is able to depart the United States within a period determined by the Secretary.

''(c) CONSEQUENCE FOR FAILURE TO DEPART.—An alien who is permitted to withdraw his or her application for admission

under this section and fails to voluntarily depart the United States within the period specified by the Secretary pursuant to subsection (b) shall be ineligible, during the 5-year period beginning on the last day of such period, to receive any further relief under this section and section 240A.

''(d) FAMILY UNITY.—In the case of an alien with a minor child in the United States who has been ordered removed after withdrawing an application under this section, the Secretary shall ensure that such alien is removed with the minor child, if the alien elects.

''(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect any withdrawal requirements in any other section of this Act.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by section 4142(b), is further amended by inserting after the item relating to section 240D the following:

''Sec. 240E. Voluntary departure after non-custodial processing.
''Sec. 240F. Withdrawal of application for admission.''.

SEC. 4144. VOLUNTARY REPATRIATION.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), as amended by section 4143(a), is further amended by inserting after section 240F, the following:

''SEC. 240G. VOLUNTARY REPATRIATION.

''(a) ESTABLISHMENT.—The Secretary of Homeland Security (referred to in this section as the 'Secretary') shall establish a voluntary repatriation program in accordance with the terms and conditions of this section.

''(b) VOLUNTARY REPATRIATION IN LIEU OF PROCEEDINGS.—Under the voluntary repatriation program established under subsection (a), the Secretary may permit an alien to elect, at any time during proceedings under section 235B or before the alien's protection merits determination under section 240D(d), voluntary repatriation in lieu of continued proceedings under section 235B or 240D.

''(c) PERIOD OF VALIDITY.—An alien who elects voluntary repatriation shall depart the United States within a period determined by the Secretary, which may not exceed 120 days.

''(d) PROCEDURES.—Consistent with subsection (b), the Secretary may permit an alien to elect voluntary repatriation if the asylum officer—

''(1) enters an order granting voluntary repatriation instead of an order of removal; and

''(2) determines that the alien—

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

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

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

''(D) meets the applicable income requirements, as determined by the Secretary; and

''(E) has not previously elected voluntary repatriation.

''(e) MINIMUM REQUIREMENTS.—

''(1) NOTICE.—The notices required to be provided to an alien under sections 235B(b)(2) and 240D(c)(1) shall include information on the voluntary repatriation program.

''(2) VERBAL REQUIREMENTS.—The asylum officer shall verbally provide the alien with information about the opportunity to elect voluntary repatriation—

''(A) at the beginning of a protection determination under section 235B(c)(2); and

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

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

''(A) may elect voluntary repatriation at any time during proceedings under 235B or before the protection merits determination under section 240D(d); and

''(B) may only elect voluntary repatriation—

''(i) knowingly and voluntarily; and

''(ii) in a written format, to the maximum extent practicable, in the alien's native language or in a language the alien understands, or in an alternative record if the alien is unable to write.

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

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

''(h) FAMILY UNITY.—In the case of an alien with a minor child in the United States who has been permitted to voluntarily repatriate pursuant to this section, the Secretary shall ensure that such alien is repatriated with the minor child, if the alien elects.

''(i) IMMIGRATION CONSEQUENCES.—

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

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

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

''(B) during the 10-year period beginning on the date on which the period of validity under subsection (c) ends, the alien shall be ineligible for relief under—

''(i) this section;

''(ii) section 240A; and

''(iii) section 240E; and

''(C) a final order of removal shall be entered against the alien.

''(3) EXCEPTIONS.—Paragraph (2) shall not apply to a child of an adult alien who elected voluntary repatriation.

''(j) CLERICAL MATTERS.—

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

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

''(3) JUDICIAL REVIEW.—No court shall have jurisdiction of the Secretary's decision, in the Secretary's sole discretion, to permit an alien to elect voluntary repatriation. No court may order a stay of an alien's removal pending consideration of any claim with respect to voluntary repatriation.

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

''(k) VOLUNTARY REPATRIATION DEFINED.—The term 'voluntary repatriation' means the free and voluntary return of an alien to the alien's country of nationality (or in the case of an alien having no nationality, the country of the alien's last habitual residence) in a safe and dignified manner, consistent with the obligations of the United States under the Convention Relating to the Status of Refugees, done at Geneva July 28, 1952 (as made applicable by the1967 Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by section 4143(b), is further amended by inserting after the item relating to section 240F the following:

''Sec. 240G. Voluntary repatriation.''.

SEC. 4145. IMMIGRATION EXAMINATIONS FEE ACCOUNT.

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

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

(2) in subsection (n), by adding at the end the following: ''Funds deposited in the 'Immigration Examinations Fee Account' shall not be used to reimburse any appropriation for expenses associated with the implementation of sections 235B and 240D.''.

SEC. 4146. BORDER REFORMS.

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

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

''SEC. 244A. SPECIAL RULES FOR CONTIGUOUS CONTINENTAL LAND BORDERS.

''(a) IN GENERAL.—An alien described in section 235 or 235B who arrives by land from a contiguous continental land border (whether or not at a designated port of arrival), absent unusual circumstances, shall be promptly subjected to the mandatory provisions of such sections unless the Secretary of Homeland Security (referred to in this section as the 'Secretary')determines, on a case-by-case basis, that there is—

''(1) an exigent medical circumstance involving the alien that requires the alien's physical presence in the United States;

''(2) a significant law enforcement or intelligence purpose warranting the alien's presence in the United States;

''(3) an urgent humanitarian reason directly pertaining to the individual alien, according to specific criteria determined by the Secretary;

''(4) a Tribal religious ceremony, cultural exchange, celebration, subsistence use, or other culturally important purpose warranting the alien's presence in the United States on Tribal land located at or near an international land border;

''(5) an accompanying alien whose presence in the United States is necessary for the alien who meets the criteria described in any of the paragraphs (1) through (4) to further the purposes of such provisions; or

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

''(b) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

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

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

''(3) to refer to or place an alien in removal proceedings pursuant to section 240, or in any other proceedings, if such referral is not otherwise authorized under this Act.

''(c) TRANSITION RULES.—

''(1) MANDATORY PROCESSING.—Beginning on the date that is 90 days after the date of the enactment of this section, the Secretary shall require any alien described in subsection (a) who does not meet any of the criteria described in paragraphs (1) through (6) of that subsection to be processed in accordance with section 235 or 235B, as applicable, unless such alien is subject to removal proceedings under subsection (b)(3).

''(2) PRE-CERTIFICATION REFERRALS AND PLACEMENTS.—Before the Comptroller General of the United States has certified that sections 235B and 240D are fully operational pursuant to section 4146(d) of the Border Act, the Secretary shall refer or place aliens described in subsection (a) in proceedings under section 240 based upon operational considerations regarding the capacity of the Secretary to process aliens under section 235 or section 235B, as applicable.

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

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

''Sec. 244A. Special rules for contiguous continental land borders.''.

(b) MODIFICATION OF AUTHORITY TO ARREST, DETAIN, AND RELEASE ALIENS.—

(1) IN GENERAL.—Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''on'';

(B) in subparagraph (A), by inserting ''on'' before ''bond''; and

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

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

''(ii) in the case of an alien encountered at the border—

''(I) pursuant to the procedures under 235B; or

''(II) on the alien's own recognizance with placement into removal proceedings under 240; and''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect immediately after the Comptroller General of the United States certifies, in accordance with subsection (d), that sections 235B and 240D of the Immigration and Nationality Act, as added by sections 3141 and 3142, are fully operational.

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) SEMIANNUAL REPORT.—

''(1) IN GENERAL.—Not later than 180 days after the date on which the Comptroller General makes the certification described in section 4146(d) of the Border Act, and every 180 days thereafter, the Secretary of Homeland Security shall publish, on a publicly accessible internet website in a downloadable and searchable format, a report that describes each use of the authority of the Secretary under subsection (a)(2)(B)(ii)(II).

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

''(A) the number of aliens released pursuant to the authority of the Secretary of Homeland Security under subsection (a)(2)(B)(ii)(II);

''(B) with respect to each such release—

''(i) the rationale;

''(ii) the Border Patrol sector in which the release occurred; and

''(iii) the number of days between the scheduled date of the protection determination and the date of release from physical custody.

''(3) PRIVACY PROTECTION.—Each report published under paragraph (1)—

''(A) shall comply with all applicable Federal privacy laws; and

''(B) shall not disclose any information contained in, or pertaining to, a protection determination.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect immediately after the Comptroller General of the United States certifies, in accordance with subsection (d), that sections 235B and 240D of the Immigration and Nationality Act, as added by sections 3141 and 3142, are fully operational.

(d) CERTIFICATION PROCESS.—

(1) DEFINITIONS.—In this subsection:

(A) FULLY OPERATIONAL.—The term ''fully operational'' means the Secretary has the necessary resources, capabilities, and personnel to process all arriving aliens referred to in sections 235B and 240D of the Immigration and Nationality Act, as added by sections 3141 and 3142, within the timeframes required by such sections.

(B) REQUIRED PARTIES.—The term ''required parties'' means—

(i) the President;

(ii) the Secretary;

(iii) the Attorney General;

(iv) the Director of the Office of Management and Budget;

(v) the Committee on Homeland Security and Governmental Affairs of the Senate;

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

(vii) the Committee on Appropriations of the Senate;

(viii) the Committee on Homeland Security of the House of Representatives;

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

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

(2) REVIEW.—

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

(B) REVIEW ELEMENTS.—In completing the review required under subparagraph (A), the Comptroller General shall assess, in comparison to the available resources, capabilities, and personnel on the date of the enactment of this Act, whether there are sufficient—

(i) properly trained personnel, including support personnel;

(ii) real property assets and other required capabilities;

(iii) information technology infrastructure;

(iv) field manuals and guidance, regulations, and policies;

(v) other investments that the Comptroller General considers necessary; and

(vi) asylum officers to effectively process all aliens who are considered amenable for processing under section 235(b), section 235B, section 240, and section 240D of the Immigration and Nationality Act.

(3) CERTIFICATION OF FULL IMPLEMENTATION.—If the Comptroller General determines, after completing the review required under paragraph (2), that sections 235B and 240D of the Immigration and Nationality Act are fully operational, the Comptroller General shall immediately submit to the required parties a certification of such determination.

(4) NONCERTIFICATION AND SUBSEQUENT REVIEWS.—If the Comptroller General determines, after completing the review required under paragraph (2), that such sections 235B and 240D are not fully operational, the Comptroller General shall—

(A) notify the required parties of such determination, including the reasons for such determination;

(B) conduct a subsequent review in accordance with paragraph (2)(A) not later than 180 days after each previous review that concluded that such sections 235B and 240D were not fully operational; and

(C) conduct a subsequent review not later than 90 days after each time Congress appropriates additional funding to fully implement such sections 235B and 240D.

(5) DETERMINATION OF THE SECRETARY.—Not later than 7 days after receiving a certification described in paragraph (3), the Secretary shall confirm or reject the certification of the Comptroller General.

(6) EFFECT OF REJECTION.—

(A) NOTIFICATION.—If the Secretary rejects a certification of the of the Comptroller General pursuant to paragraph (A), the Secretary shall immediately—

(i) notify the President, the Comptroller General, and the congressional committees listed in paragraph (1) of such rejection; and

(ii) provide such entities with a rationale for such rejection.

(B) SUBSEQUENT REVIEWS.—If the Comptroller General receives a notification of rejection from the Secretary pursuant to subparagraph (A), the Comptroller General shall conduct a subsequent review in accordance with paragraph (4)(B).

SEC. 4147. PROTECTION APPELLATE BOARD.

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

''SEC. 463. PROTECTION APPELLATE BOARD.

''(a) ESTABLISHMENT.—The Secretary shall establish within the U.S. Citizenship and Immigration Services an appellate authority to conduct administrative appellate reviews of protection merits determinations made under section 240D of the Immigration and Nationality Act in which the alien is denied relief or protection, to be known as the 'Protection Appellate Board'.

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

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

''(2) are from diverse geographic regions.

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

''(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;

''(2) the alien's application for a protection merits interview (as defined in section 240D(1) of that Act);

''(3) a transcript of the alien's protection merits interview;

''(4) the final record of the alien's protection merits interview;

''(5) a sworn statement from the alien identifying new evidence or alleged error and any

accompanying information the alien or the alien's legal representative considers important; and

''(6) any additional materials, information, or facts inserted into the record.

''(d) DECISIONS.—Any final determination made by a panel of the Protection Appellate Board shall be by majority decision, independently submitted by each member of the panel.

''(e) EXCLUSIVE JURISDICTION.—The Protection Appellate Board shall have exclusive jurisdiction to review appeals of negative protections merits determinations.

''(f) PROTECTIONS FOR DECISIONS BASED ON MERITS OF CASE.—The Director of U.S. Citizenship and Immigration Services may not impose restrictions on an asylum officer's ability to grant or deny relief or protection based on a numerical limitation.

''(g) REPORTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary—

''(A) shall submit a report to the appropriate committees of the Congress that includes, for the preceding year—

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

''(ii) the number of appeals considered by the Protection Appellate Board under such section that resulted in a grant of relief or protection;

''(iii) the number of appeals considered by the Protection Appellate Board under such section that resulted in a denial of relief or protection;

''(iv) the geographic regions in which the members of the Protection Appellate Board held their primary duty station;

''(v) the tenure of service of the members of the Protection Appellate Board;

''(vi) a description of any anomalous case outcome identified by the Secretary and the resolution of any such case outcome;

''(vii) the number of unanimous decisions by the Protection Appellate Board;

''(viii) an identification of the number of cases the Protection Appellate Board was unable to complete in the timelines specified under section 240D(e) of the Immigration and Nationality Act; and

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

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

''(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term 'appropriate committees of Congress' means—

''(A) the Committee on Appropriations of the Senate;

''(B) the Committee on the Judiciary of the Senate;

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

''(D) the Committee on Appropriations of the House of Representatives;

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

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

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

''Sec. 463. Protection Appellate Board.''.

TITLE II—ASYLUM PROCESSING ENHANCEMENTS

SEC. 4201. COMBINED SCREENINGS.

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

''(53) The term 'protection determination' means—

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

''(B) a screening to determine whether an alien is eligible for—

''(i) withholding of removal under section 241(b)(3); or

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

''(54) The term 'protection merits interview' means an interview to determine whether an alien—

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

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

''(C) is eligible for protection under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, which includes the regulations implementing any law enacted pursuant to Article 3 of such convention.''.

SEC. 4202. CREDIBLE FEAR STANDARD AND ASYLUM BARS AT SCREENING INTERVIEW.

Section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)) is amended—

(1) in clause (v), by striking ''significant possibility'' and inserting ''reasonable possibility''; and

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

''(vi) ASYLUM EXCEPTIONS.—An asylum officer, during the credible fear screening of an alien—

''(I) shall determine whether any of the asylum exceptions under section 208(b)(2) disqualify the alien from receiving asylum; and

''(II) may determine that the alien does not meet the definition of credible fear of persecution under clause (v) if any such exceptions apply, including whether any such exemptions to such disqualifying exceptions may apply.''.

SEC. 4203. INTERNAL RELOCATION.

(a) IN GENERAL.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) in clause (v), by striking ''or'' at the end;

(2) in clause (vi), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(vii) there are reasonable grounds for concluding that the alien could avoid persecution by relocating to—

''(I) another location in the alien's country of nationality; or

''(II) in the case of an alien having no nationality, another location in the alien's country of last habitual residence.''.

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

SEC. 4204. ASYLUM OFFICER CLARIFICATION.

Section 235(b)(1)(E) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(E)) is amended—

(1) in clause (i), by striking ''comparable to'' and all that follows and inserting '', including nonadversarial techniques;'';

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii)(I) is an employee of U.S. Citizenship and Immigration Services; and

''(II) is not a law enforcement officer.''.

TITLE III—SECURING AMERICA

Subtitle A—Border Emergency Authority

SEC. 4301. BORDER EMERGENCY AUTHORITY.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), as amended by section 4146(a), is further amended by adding at the end the following:

''SEC. 244B. BORDER EMERGENCY AUTHORITY.

''(a) USE OF AUTHORITY.—

''(1) IN GENERAL.—In order to respond to extraordinary migration circumstances, there shall be available to the Secretary, notwithstanding any other provision of law, a border emergency authority.

''(2) EXCEPTIONS.—The border emergency authority shall not be activated with respect to any of the following:

''(A) A citizen or national of the United States.

''(B) An alien who is lawfully admitted for permanent residence.

''(C) An unaccompanied alien child.

''(D) An alien who an immigration officer determines, with the approval of a supervisory immigration officer, should be excepted from the border emergency authority based on the totality of the circumstances, including consideration of significant law enforcement, officer and public safety, humanitarian, and public health interests, or an alien who an immigration officer determines, in consultation with U.S. Immigration and Customs Enforcement, should be excepted from the border emergency authority due to operational considerations.

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

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

''(i) a member of the Armed Forces of the United States and associated personnel, United States Government employees or contractors on orders abroad, or United States Government employees or contractors, and an accompanying family member who is on orders or is a member of the alien's household, subject to required assurances;

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

''(iii) an alien from a visa waiver program country under section 217 who is not otherwise subject to travel restrictions and who arrives at a port of entry; or

''(iv) an alien who presents at a port of entry pursuant to a process approved by the Secretary to allow for safe and orderly entry into the United States.

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

''(b) BORDER EMERGENCY AUTHORITY DESCRIBED.—

''(1) IN GENERAL.—Whenever the border emergency authority is activated, the Secretary shall have the authority, in the Secretary's sole and unreviewable discretion, to summarily remove from and prohibit, in whole or in part, entry into the United States of any alien identified in subsection (a)(3) who is subject to such authority in accordance with this subsection.

''(2) TERMS AND CONDITIONS.—

''(A) SUMMARY REMOVAL.—Notwithstanding any other provision of this Act, subject to subparagraph (B), the Secretary shall issue a summary removal order and summarily remove an alien to the country of which the alien is a subject, national, or citizen (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), or in accordance with the processes established under section 241, unless the summary removal of the alien to such country would be prejudicial to the interests of the United States.

''(B) WITHHOLDING AND CONVENTION AGAINST TORTURE INTERVIEWS.—

''(i) IN GENERAL.—In the case of an alien subject to the border emergency authority who manifests a fear of persecution or torture with respect to a proposed country of summary removal, an asylum officer (as defined in section 235(b)(1)(E)) shall conduct an interview, during which the asylum officer shall determine that, if such alien demonstrates during the interview that the alien has a reasonable possibility of persecution or torture, such alien shall be referred to or placed in proceedings under section 240 or 240D, as appropriate.

''(ii) SOLE MECHANISM TO REQUEST PROTECTION.—An interview under this subparagraph conducted by an asylum officer shall be the sole mechanism by which an alien described in clause (i) may make a claim for protection under—

''(I) section 241(b)(3); and

''(II) the Convention Against Torture.

''(iii) ALIEN REFERRED FOR ADDITIONAL PROCEEDINGS.—In the case of an alien interviewed under clause (i) who demonstrates that the alien is eligible to apply for protection under section 241(b)(3) or the Convention Against Torture, the alien—

''(I) shall not be summarily removed; and

''(II) shall instead be processed under section 240 or 240D, as appropriate.

''(iv) ADDITIONAL REVIEW.—

''(I) OPPORTUNITY FOR SECONDARY REVIEW.—A supervisory asylum officer shall review any case in which the asylum officer who interviewed the alien under the procedures in clause (iii) finds that the alien is not eligible for protection under section 241(b)(3) or the Convention Against Torture.

''(II) VACATUR.—If, in conducting such a secondary review, the supervisory asylum officer determines that the alien demonstrates eligibility for such protection—

''(aa) the supervisory asylum officer shall vacate the previous negative determination; and

''(bb) the alien shall instead be processed under section 240 or 240D.

''(III) SUMMARY REMOVAL.—If an alien does not seek such a secondary review, or if the supervisory asylum officer finds that such alien is not eligible for such protection, the supervisory asylum officer shall order the alien summarily removed without further review.

''(3) ACTIVATIONS OF AUTHORITY.—

''(A) MANDATORY ACTIVATION.—The Secretary shall activate the border emergency authority if there is an average of 1,000 or more aliens encountered per day during a period of 7 consecutive days.

''(B) CALCULATION OF ACTIVATION.—For purposes of subparagraph (A), the average for the applicable 7-day period shall be calculated using—

''(i) the sum of—

''(I) the number of encounters that occur between the southwest land border ports of entry of the United States;

''(II) the number of encounters that occur between the ports of entry along the southern coastal borders; and

''(III) the number of inadmissible aliens encountered at a southwest land border port of entry as described in subsection (a)(2)(F)(iv); divided by

''(ii) 7.

''(4) IMPLEMENTATION.—The Secretary shall implement the border emergency authority not later than 24 hours after it is activated.

''(c) CONTINUED ACCESS TO SOUTHWEST LAND BORDER PORTS OF ENTRY.—

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

''(2) SPECIAL RULES.—

''(A) UNACCOMPANIED ALIEN CHILDREN EXCEPTION.—For the purpose of calculating the number under paragraph (1), the Secretary shall count all unaccompanied alien children.

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

''(d) BAR TO ADMISSION.—Any alien who, during a period of 365 days, has 2 or more summary removals pursuant to the border emergency authority, shall be inadmissible for a period of 1 year beginning on the date of the alien's most recent summary removal.

''(e) SAVINGS PROVISIONS.—

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

''(2) SETTLEMENT AGREEMENTS.—Nothing in this section may be construed to interfere with any rights or responsibilities established through a settlement agreement in effect before the date of the enactment of this section.

''(3) RULE OF CONSTRUCTION.—For purposes of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1952 (as made applicable by the 1967 Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)), the Convention Against Torture, and any other applicable treaty, as applied to this section, the interview under this section shall occur only in the context of the border emergency authority.

''(f) JUDICIAL REVIEW.—Judicial review of any decision or action applying the border emergency authority shall be governed only by this subsection as follows:

''(1) Notwithstanding any other provision of law, except as provided in paragraph (2), no court or judge shall have jurisdiction to review any cause or claim by an individual alien arising from the decision to enter a summary removal order against such alien under this section, or removing such alien pursuant to such summary removal order.

''(2) The United States District Court for the District of Columbia shall have sole and original jurisdiction to hear challenges, whether constitutional or otherwise, to the validity of this section or any written policy directive, written policy guideline, written procedure, or the implementation thereof, issued by or under the authority of the Secretary to implement this section.

''(g) EFFECTIVE DATE.—

''(1) IN GENERAL.—This section shall take effect on the day after the date of the enactment of this section.

''(2) 7-DAY PERIOD.—The initial activation of the authority under subparagraph (A) or (B)(i) of subsection (b)(3) shall take into account the average number of encounters during the preceding 7 consecutive calendar days, as described in such subparagraphs, which may include the 6 consecutive calendar days immediately preceding the date of the enactment of this section.

''(h) RULEMAKING.—

''(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this section in compliance with the requirements of section 553 of title 5, United States Code.

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

''(3) REQUIREMENT.—All regulations promulgated to implement this section beginning on the date that is 180 days after the date of the enactment of this section shall be issued pursuant to the requirements set forth in section 553 of title 5, United States Code.

''(i) DEFINITIONS.—In this section:

''(1) BORDER EMERGENCY AUTHORITY.—The term 'border emergency authority' means all authorities and procedures under this section.

''(2) CONVENTION AGAINST TORTURE.—The term 'Convention Against Torture' means the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, and includes the regulations implementing any law enacted pursuant to Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

''(3) ENCOUNTER.—With respect to an alien, the term 'encounter' means an alien who—

''(A) is physically apprehended by U.S. Customs and Border Protection personnel—

''(i) within 100 miles of the southwest land border of the United States during the 14-day period immediately after entry between ports of entry; or

''(ii) at the southern coastal borders during the 14-day period immediately after entry between ports of entry; or

''(B) is seeking admission at a southwest land border port of entry and is determined to be inadmissible, including an alien who utilizes a process approved by the Secretary to allow for safe and orderly entry into the United States.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(5) SOUTHERN COASTAL BORDERS.—The term 'southern coastal borders' means all maritime borders in California, Texas, Louisiana, Mississippi, Alabama, and Florida.

''(6) UNACCOMPANIED ALIEN CHILD.—The term 'unaccompanied alien child' has the meaning given such term in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)).

''(j) SUNSET.—This section—

''(1) shall take effect on the date of the enactment of this section; and

''(2) shall cease to be effective on the day after the first date on which the average daily southwest border encounters has been fewer than 1,000 for 7 consecutive days.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as amended by section 4146(b), is further amended by inserting after the item relating to section 244A the following:

''Sec. 244B Border emergency authority.''.

Subtitle B—Fulfilling Promises to Afghan Allies

SEC. 4321. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Armed Services of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on Homeland Security and Governmental Affairs of the Senate;

(F) the Committee on the Judiciary of the House of Representatives;

(G) the Committee on Foreign Affairs of the House of Representatives;

(H) the Committee on Armed Services of the House of Representatives;

(I) the Committee on Appropriations of the House of Representatives; and

(J) the Committee on Homeland Security of the House of Representatives.

(2) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(4) SPECIAL IMMIGRANT STATUS.—The term ''special immigrant status'' means special immigrant status provided under—

(A) the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8);

(B) section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note; Public Law 109–163); or

(C) subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as added by section 4326(a).

(5) SPECIFIED APPLICATION.—The term ''specified application'' means—

(A) a pending, documentarily complete application for special immigrant status; and

(B) a case in processing in the United States Refugee Admissions Program for an individual who has received a Priority 1 or Priority 2 referral to such program.

(6) UNITED STATES REFUGEE ADMISSIONS PROGRAM.—The term ''United States Refugee Admissions Program'' means the program to resettle refugees in the United States pursuant to the authorities provided in sections 101(a)(42), 207, and 412 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42), 1157, and 1522).

SEC. 4322. SUPPORT FOR AFGHAN ALLIES OUTSIDE THE UNITED STATES.

(a) RESPONSE TO CONGRESSIONAL INQUIRIES.—The Secretary of State shall respond to inquiries by Members of Congress regarding the status of a specified application submitted by, or on behalf of, a national of Afghanistan, including any information that has been provided to the applicant, in accordance with section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)).

(b) OFFICE IN LIEU OF EMBASSY.—During the period in which there is no operational United States embassy in Afghanistan, the Secretary of State shall designate an appropriate office within the Department of State—

(1) to review specified applications submitted by nationals of Afghanistan residing in Afghanistan, including by conducting any required interviews;

(2) to issue visas or other travel documents to such nationals, in accordance with the immigration laws;

(3) to provide services to such nationals, to the greatest extent practicable, that would normally be provided by an embassy; and

(4) to carry out any other function the Secretary of State considers necessary.

SEC. 4323. CONDITIONAL PERMANENT RESIDENT STATUS FOR ELIGIBLE INDIVIDUALS.

(a) DEFINITIONS.—In this section:

(1) CONDITIONAL PERMANENT RESIDENT STATUS.—The term ''conditional permanent resident status'' means conditional permanent resident status under section 216 and 216A of the Immigration and Nationality Act (8 U.S.C. 1186a, 1186b), subject to the provisions of this section.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means an alien who—

(A) is present in the United States;

(B) is a citizen or national of Afghanistan or, in the case of an alien having no nationality, is a person who last habitually resided in Afghanistan;

(C) has not been granted permanent resident status;

(D)(i) was inspected and admitted to the United States on or before the date of the enactment of this Act; or

(ii) was paroled into the United States during the period beginning on July 30, 2021, and ending on the date of the enactment of this Act, provided that such parole has not been terminated by the Secretary upon written notice; and

(E) is admissible to the United States as an immigrant under the immigration laws, including eligibility for waivers of grounds of inadmissibility to the extent provided by the immigration laws and subject to the terms of subsection (c) of this section.

(b) CONDITIONAL PERMANENT RESIDENT STATUS FOR ELIGIBLE INDIVIDUALS.—

(1) ADJUSTMENT OF STATUS TO CONDITIONAL PERMANENT RESIDENT STATUS.—Beginning on the date of the enactment of this Act, the Secretary may—

(A) adjust the status of each eligible individual to that of an alien lawfully admitted for permanent residence status, subject to the procedures established by the Secretary to determine eligibility for conditional permanent resident status; and

(B) create for each eligible individual a record of admission to such status as of the date on which the eligible individual was initially inspected and admitted or paroled into the United States, or July 30, 2021, whichever is later,

unless the Secretary determines, on a case-by-case basis, that such individual is subject to any ground of inadmissibility under section 212 (other than subsection (a)(4)) of the Immigration and Nationality Act (8 U.S.C. 1182) and is not eligible for a waiver of such grounds of inadmissibility as provided by this subtitle or by the immigration laws.

(2) CONDITIONAL BASIS.—An individual who obtains lawful permanent resident status under this section shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

(c) CONDITIONAL PERMANENT RESIDENT STATUS DESCRIBED.—

(1) ASSESSMENT.—

(A) IN GENERAL.—Before granting conditional permanent resident status to an eligible individual under subsection (b)(1), the Secretary shall conduct an assessment with respect to the eligible individual, which shall be equivalent in rigor to the assessment conducted with respect to refugees admitted to the United States through the United States Refugee Admissions Program, for the purpose of determining whether the eligible individual is subject to any ground of inadmissibility under section 212 (other than subsection (a)(4)) of the Immigration and Nationality Act (8 U.S.C. 1182).

(B) CONSULTATION.—In conducting an assessment under subparagraph (A), the Secretary may consult with the head of any other relevant agency and review the holdings of any such agency.

(2) REMOVAL OF CONDITIONS.—

(A) IN GENERAL.—Not earlier than the date described in subparagraph (B), the Secretary may remove the conditional basis of the status of an individual granted conditional permanent resident status under this section unless the Secretary determines, on a case-by-case basis, that such individual is subject to any ground of inadmissibility under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and is not eligible for a waiver of such grounds of inadmissibility as provided by this subtitle or by the immigration laws.

(B) DATE DESCRIBED.—The date described in this subparagraph is the earlier of—

(i) the date that is 4 years after the date on which the individual was admitted or paroled into the United States; or

(ii) July 1, 2027.

(C) WAIVER.—

(i) IN GENERAL.—Except as provided in clause (ii), with respect to an eligible individual, the Secretary may waive the application of the grounds of inadmissibility under 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes or to ensure family unity.

(ii) EXCEPTIONS.—The Secretary may not waive under clause (i) the application of subparagraphs (C) through (E) and (G) through (H) of paragraph (2), or paragraph (3), of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph may be construed to expand or limit any other waiver authority applicable under the immigration laws to an applicant for adjustment of status.

(D) TIMELINE.—Not later than 180 days after the date described in subparagraph (B), the Secretary shall endeavor to remove conditions as to all individuals granted conditional permanent resident status under this section who are eligible for removal of conditions.

(3) TREATMENT OF CONDITIONAL BASIS OF STATUS PERIOD FOR PURPOSES OF NATURALIZATION.—An individual in conditional permanent resident status under this section, or who otherwise meets the requirements under (a)(1) of this section, shall be considered—

(A) to have been admitted to the United States as an alien lawfully admitted for permanent residence; and

(B) to be present in the United States as an alien lawfully admitted to the United States for permanent residence, provided that, no alien shall be naturalized unless the alien's conditions have been removed under this section.

(d) TERMINATION OF CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Conditional permanent resident status shall terminate on, as applicable—

(A) the date on which the Secretary removes the conditions pursuant to subsection (c)(2), on which date the alien shall be lawfully admitted for permanent residence without conditions;

(B) the date on which the Secretary determines that the alien was not an eligible individual under subsection (a)(2) as of the date that such conditional permanent resident status was granted, on which date of the Secretary's determination the alien shall no longer be an alien lawfully admitted for permanent residence; or

(C) the date on which the Secretary determines pursuant to subsection (c)(2) that the alien is not eligible for removal of conditions, on which date the alien shall no longer be an alien lawfully admitted for permanent residence.

(2) NOTIFICATION.—If the Secretary terminates status under this subsection, the Secretary shall so notify the individual in writing and state the reasons for the termination.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary at any time to place in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) any alien who has conditional permanent resident status under this section, if the alien is deportable under section 237 of such Act (8 U.S.C. 1227) under a ground of deportability applicable to an alien who has been lawfully admitted for permanent residence.

(f) PAROLE EXPIRATION TOLLED.—The expiration date of a period of parole shall not apply to an individual under consideration for conditional permanent resident status under this section, until such time as the Secretary has determined whether to issue conditional permanent resident status.

(g) PERIODIC NONADVERSARIAL MEETINGS.—

(1) IN GENERAL.—Not later than 180 days after the date on which an individual is conferred conditional permanent resident status under this section, and periodically thereafter, the Office of Refugee Resettlement shall make available opportunities for the individual to participate in a nonadversarial meeting, during which an official of the Office of Refugee Resettlement (or an agency funded by the Office) shall—

(A) on request by the individual, assist the individual in a referral or application for applicable benefits administered by the Department of Health and Human Services and completing any applicable paperwork; and

(B) answer any questions regarding eligibility for other benefits administered by the United States Government.

(2) NOTIFICATION OF REQUIREMENTS.—Not later than 7 days before the date on which a meeting under paragraph (1) is scheduled to occur, the Secretary of Health and Human Services shall provide notice to the individual that includes the date of the scheduled meeting and a description of the process for rescheduling the meeting.

(3) CONDUCT OF MEETING.—The Secretary of Health and Human Services shall implement practices to ensure that—

(A) meetings under paragraph (1) are conducted in a nonadversarial manner; and

(B) interpretation and translation services are provided to individuals granted conditional permanent resident status under this section who have limited English proficiency.

(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to prevent an individual from electing to have counsel present during a meeting under paragraph (1); or

(B) in the event that an individual declines to participate in such a meeting, to affect the individual's conditional permanent resident status under this section or eligibility to have conditions removed in accordance with this section.

(h) CONSIDERATION.—Except with respect to an application for naturalization and the benefits described in subsection (p), an individual in conditional permanent resident status under this section shall be considered to be an alien lawfully admitted for permanent residence for purposes of the adjudication of an application or petition for a benefit or the receipt of a benefit.

(i) NOTIFICATION OF REQUIREMENTS.—Not later than 90 days after the date on which the status of an individual is adjusted to that of conditional permanent resident status under this section, the Secretary shall provide notice to such individual with respect to the provisions of this section, including subsection (c)(1) (relating to the conduct of assessments) and subsection (g) (relating to periodic nonadversarial meetings).

(j) APPLICATION FOR NATURALIZATION.—The Secretary shall establish procedures whereby an individual who would otherwise be eligible to apply for naturalization but for having conditional permanent resident status, may be considered for naturalization coincident with removal of conditions under subsection (c)(2).

(k) ADJUSTMENT OF STATUS DATE.—

(1) IN GENERAL.—An alien described in paragraph (2) shall be regarded as lawfully admitted for permanent residence as of the date the alien was initially inspected and admitted or paroled into the United States, or July 30, 2021, whichever is later.

(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

(A) is described in subparagraph (A), (B), or (D) of subsection (a)(2), and whose status was adjusted to that of an alien lawfully admitted for permanent residence on or after July 30, 2021, but on or before the date of the enactment of this Act; or

(B) is an eligible individual whose status is then adjusted to that of an alien lawfully admitted for permanent residence after the date of the enactment of this Act under any provision of the immigration laws other than this section.

(l) PARENTS AND LEGAL GUARDIANS OF UNACCOMPANIED CHILDREN.—A parent or legal guardian of an eligible individual shall be eligible to obtain status as an alien lawfully admitted for permanent residence on a conditional basis if—

(1) the eligible individual—

(A) was under 18 years of age on the date on which the eligible individual was granted conditional permanent resident status under this section; and

(B) was not accompanied by at least one parent or guardian on the date the eligible individual was admitted or paroled into the United States; and

(2) such parent or legal guardian was admitted or paroled into the United States after the date referred to in paragraph (1)(B).

(m) GUIDANCE.—

(1) INTERIM GUIDANCE.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall issue guidance implementing this section.

(B) PUBLICATION.—Notwithstanding section 553 of title 5, United States Code, guidance issued pursuant to subparagraph (A)—

(i) may be published on the internet website of the Department of Homeland Security; and

(ii) shall be effective on an interim basis immediately upon such publication but may be subject to change and revision after notice and an opportunity for public comment.

(2) FINAL GUIDANCE.—

(A) IN GENERAL.—Not later than 180 days after the date of issuance of guidance under paragraph (1), the Secretary shall finalize the guidance implementing this section.

(B) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURES ACT.—Chapter 5 of title 5, United States Code (commonly known as the ''Administrative Procedures Act''), or any other law relating to rulemaking or information collection, shall not apply to the guidance issued under this paragraph.

(n) ASYLUM CLAIMS.—

(1) IN GENERAL.—With respect to the adjudication of an application for asylum submitted by an eligible individual, section 2502(c) of the Extending Government Funding and Delivering Emergency Assistance Act (8 U.S.C. 1101 note; Public Law 117–43) shall not apply.

(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit an eligible individual from seeking or receiving asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158).

(o) PROHIBITION ON FEES.—The Secretary may not charge a fee to any eligible individual in connection with the initial issuance under this section of—

(1) a document evidencing status as an alien lawfully admitted for permanent residence or conditional permanent resident status; or

(2) an employment authorization document.

(p) ELIGIBILITY FOR BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) an individual described in subsection (a) of section 2502 of the Afghanistan Supplemental Appropriations Act, 2022 (8 U.S.C. 1101 note; Public Law 117–43) shall retain his or her eligibility for the benefits and services described in subsection (b) of such section if the individual has a pending application, or is granted adjustment of status, under this section; and

(B) such benefits and services shall remain available to the individual to the same extent and for the same periods of time as such benefits and services are otherwise available to refugees who acquire such status.

(2) EXCEPTION FROM 5-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.—Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

''(F) An alien whose status is adjusted under section 4333 of the Border Act to that of an alien lawfully admitted for permanent residence or to that of an alien lawfully admitted for permanent residence on a conditional basis.''.

(q) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude an eligible individual from applying for or receiving any immigration benefit to which the individual is otherwise entitled.

(r) EXEMPTION FROM NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Aliens granted conditional permanent resident status or lawful permanent resident status under this section shall not be subject to the numerical limitations under sections 201, 202, and 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, and 1153).

(2) SPOUSE AND CHILDREN BENEFICIARIES.—A spouse or child who is the beneficiary of an immigrant petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) filed by an alien who has been granted conditional permanent resident status or lawful permanent resident status under this section, seeking classification of the spouse or child under section 203(a)(2)(A) of that Act (8 U.S.C. 1153(a)(2)(A)) shall not be subject to the numerical limitations under sections 201, 202, and 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, and 1153).

(s) EFFECT ON OTHER APPLICATIONS.—Notwithstanding any other provision of law, in the interest of efficiency, the Secretary may pause consideration of any application or request for an immigration benefit pending adjudication so as to prioritize an application for adjustment of status to an alien lawfully admitted for permanent residence under this section.

(t) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Attorney General, the Secretary of Health and Human Services, the Secretary, and the Secretary of State such sums as are necessary to carry out this section.

SEC. 4324. REFUGEE PROCESSES FOR CERTAIN AT-RISK AFGHAN ALLIES.

(a) DEFINITION OF AFGHAN ALLY.—

(1) IN GENERAL.—In this section, the term ''Afghan ally'' means an alien who is a citizen or national of Afghanistan, or in the case of an alien having no nationality, an alien who last habitually resided in Afghanistan, who—

(A) was—

(i) a member of—

(I) the special operations forces of the Afghanistan National Defense and Security Forces;

(II) the Afghanistan National Army Special Operations Command;

(III) the Afghan Air Force; or

(IV) the Special Mission Wing of Afghanistan;

(ii) a female member of any other entity of the Afghanistan National Defense and Security Forces, including—

(I) a cadet or instructor at the Afghanistan National Defense University; and

(II) a civilian employee of the Ministry of Defense or the Ministry of Interior Affairs;

(iii) an individual associated with former Afghan military and police human intelligence activities, including operators and Department of Defense sources;

(iv) an individual associated with former Afghan military counterintelligence, counterterrorism, or counternarcotics;

(v) an individual associated with the former Afghan Ministry of Defense, Ministry of Interior Affairs, or court system, and who was involved in the investigation, prosecution or detention of combatants or members of the Taliban or criminal networks affiliated with the Taliban; or

(vi) a senior military officer, senior enlisted personnel, or civilian official who served on the staff of the former Ministry of Defense or the former Ministry of Interior Affairs of Afghanistan; or

(B) provided service to an entity or organization described in subparagraph (A) for not less than 1 year during the period beginning on December 22, 2001, and ending on September 1, 2021, and did so in support of the United States mission in Afghanistan.

(2) INCLUSIONS.—For purposes of this section, the Afghanistan National Defense and Security Forces includes members of the security forces under the Ministry of Defense and the Ministry of Interior Affairs of the Islamic Republic of Afghanistan, including the Afghanistan National Army, the Afghan Air Force, the Afghanistan National Police, and any other entity designated by the Secretary of Defense as part of the Afghanistan National Defense and Security Forces during the relevant period of service of the applicant concerned.

(b) REFUGEE STATUS FOR AFGHAN ALLIES.—

(1) DESIGNATION AS REFUGEES OF SPECIAL HUMANITARIAN CONCERN.—Afghan allies shall be considered refugees of special humanitarian concern under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), until the later of 10 years after the date of enactment of this Act or upon determination by the Secretary of State, in consultation with the Secretary of Defense and the Secretary, that such designation is no longer in the interest of the United States.

(2) THIRD COUNTRY PRESENCE NOT REQUIRED.—Notwithstanding section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)), the Secretary of State and the Secretary shall, to the greatest extent possible, conduct remote refugee processing for an Afghan ally located in Afghanistan.

(c) AFGHAN ALLIES REFERRAL PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act—

(A) the Secretary of Defense, in consultation with the Secretary of State, shall establish a process by which an individual may apply to the Secretary of Defense for classification as an Afghan ally and request a referral to the United States Refugee Admissions Program; and

(B) the head of any appropriate department or agency that conducted operations in Afghanistan during the period beginning on December 22, 2001, and ending on September 1, 2021, in consultation with the Secretary of State, may establish a process by which an individual may apply to the head of the appropriate department or agency for classification as an Afghan ally and request a referral to the United States Refugee Admissions Program.

(2) APPLICATION SYSTEM.—

(A) IN GENERAL.—The process established under paragraph (1) shall—

(i) include the development and maintenance of a secure online portal through which applicants may provide information verifying their status as Afghan allies and upload supporting documentation; and

(ii) allow—

(I) an applicant to submit his or her own application;

(II) a designee of an applicant to submit an application on behalf of the applicant; and

(III) in the case of an applicant who is outside the United States, the submission of an application regardless of where the applicant is located.

(B) USE BY OTHER AGENCIES.—The Secretary of Defense may enter into arrangements with the head of any other appropriate department or agency so as to allow the application system established under subparagraph (A) to be used by such department or agency.

(3) REVIEW PROCESS.—As soon as practicable after receiving a request for classification and referral described in paragraph (1), the head of the appropriate department or agency shall—

(A) review—

(i) the service record of the applicant, if available;

(ii) if the applicant provides a service record or other supporting documentation, any information that helps verify the service record concerned, including information or an attestation provided by any current or former official of the department or agency who has personal knowledge of the eligibility of the applicant for such classification and referral; and

(iii) the data holdings of the department or agency and other cooperating interagency partners, including biographic and biometric records, iris scans, fingerprints, voice biometric information, hand geometry biometrics, other identifiable information, and any other information related to the applicant, including relevant derogatory information; and

(B)(i) in a case in which the head of the department or agency determines that the applicant is an Afghan ally without significant derogatory information, refer the Afghan ally to the United States Refugee Admissions Program as a refugee; and

(ii) include with such referral—

(I) any service record concerned, if available;

(II) if the applicant provides a service record, any information that helps verify the service record concerned; and

(III) any biometrics for the applicant.

(4) REVIEW PROCESS FOR DENIAL OF REQUEST FOR REFERRAL.—

(A) IN GENERAL.—In the case of an applicant with respect to whom the head of the appropriate department or agency denies a request for classification and referral based on a determination that the applicant is not an Afghan ally or based on derogatory information—

(i) the head of the department or agency shall provide the applicant with a written notice of the denial that provides, to the maximum extent practicable, a description of the basis for the denial, including the facts and inferences, or evidentiary gaps, underlying the individual determination; and

(ii) the applicant shall be provided an opportunity to submit not more than 1 written appeal to the head of the department or agency for each such denial.

(B) DEADLINE FOR APPEAL.—An appeal under clause (ii) of subparagraph (A) shall be submitted—

(i) not more than 120 days after the date on which the applicant concerned receives notice under clause (i) of that subparagraph; or

(ii) on any date thereafter, at the discretion of the head of the appropriate department or agency.

(C) REQUEST TO REOPEN.—

(i) IN GENERAL.—An applicant who receives a denial under subparagraph (A) may submit a request to reopen a request for classification and referral under the process established under paragraph (1) so that the applicant may provide additional information, clarify existing information, or explain any unfavorable information.

(ii) LIMITATION.—After considering 1 such request to reopen from an applicant, the head of the appropriate department or agency may deny subsequent requests to reopen submitted by the same applicant.

(5) FORM AND CONTENT OF REFERRAL.—To the extent practicable, the head of the appropriate department or agency shall ensure that referrals made under this subsection—

(A) conform to requirements established by the Secretary of State for form and content; and

(B) are complete and include sufficient contact information, supporting documentation, and any other material the Secretary of State or the Secretary consider necessary or helpful in determining whether an applicant is entitled to refugee status.

(6) TERMINATION.—The application process and referral system under this subsection shall terminate upon the later of 1 year before the termination of the designation under subsection (b)(1) or on the date of a joint determination by the Secretary of State and the Secretary of Defense, in consultation with the Secretary, that such termination is in the national interest of the United States.

(d) GENERAL PROVISIONS.—

(1) PROHIBITION ON FEES.—The Secretary, the Secretary of Defense, or the Secretary of State may not charge any fee in connection with a request for a classification and referral as a refugee under this section.

(2) DEFENSE PERSONNEL.—Any limitation in law with respect to the number of personnel within the Office of the Secretary of Defense, the military departments, or a Defense Agency (as defined in section 101(a) of title 10, United States Code) shall not apply to personnel employed for the primary purpose of carrying out this section.

(3) REPRESENTATION.—An alien applying for admission to the United States under this section may be represented during the application process, including at relevant interviews and examinations, by an attorney or other accredited representative. Such representation shall not be at the expense of the United States Government.

(4) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the head of any other appropriate Federal agency, shall make a reasonable effort to provide an alien who has been classified as an Afghan ally and has been referred as a refugee under this section protection or to immediately remove such alien from Afghanistan, if possible.

(5) OTHER ELIGIBILITY FOR IMMIGRANT STATUS.—No alien shall be denied the opportunity to apply for admission under this section solely because the alien qualifies as an

immediate relative or is eligible for any other immigrant classification.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for each of fiscal years 2024 through 2034 to carry out this section.

(e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to inhibit the Secretary of State from accepting refugee referrals from any entity.

SEC. 4325. IMPROVING EFFICIENCY AND OVERSIGHT OF REFUGEE AND SPECIAL IMMIGRANT PROCESSING.

(a) ACCEPTANCE OF FINGERPRINT CARDS AND SUBMISSIONS OF BIOMETRICS.—In addition to the methods authorized under the heading relating to the Immigration and Naturalization Service under title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1998 (Public Law 105–119, 111 Stat. 2448; 8 U.S.C. 1103 note), and other applicable law, and subject to such safeguards as the Secretary, in consultation with the Secretary of State or the Secretary of Defense, as appropriate, shall prescribe to ensure the integrity of the biometric collection (which shall include verification of identity by comparison of such fingerprints with fingerprints taken by or under the direct supervision of the Secretary prior to or at the time of the individual's application for admission to the United States), the Secretary may, in the case of any application for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), accept fingerprint cards or any other submission of biometrics—

(1) prepared by international or nongovernmental organizations under an appropriate agreement with the Secretary or the Secretary of State;

(2) prepared by employees or contractors of the Department of Homeland Security or the Department of State; or

(3) provided by an agency (as defined under section 3502 of title 44, United States Code).

(b) STAFFING.—

(1) VETTING.—The Secretary of State, the Secretary, the Secretary of Defense, and any other agency authorized to carry out the vetting process under this subtitle, shall each ensure sufficient staffing, and request the resources necessary, to efficiently and adequately carry out the vetting of applicants for—

(A) referral to the United States Refugee Admissions Program, consistent with the determinations established under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); and

(B) special immigrant status.

(2) REFUGEE RESETTLEMENT.—The Secretary of Health and Human Services shall ensure sufficient staffing to efficiently provide assistance under chapter 2 of title IV of the Immigration and Nationality Act (8 U.S.C. 1521 et seq.) to refugees resettled in the United States.

(c) REMOTE PROCESSING.—Notwithstanding any other provision of law, the Secretary of State and the Secretary shall employ remote processing capabilities for refugee processing under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), including secure digital file transfers, videoconferencing and teleconferencing capabilities, remote review of applications, remote interviews, remote collection of signatures, waiver of the applicant's appearance or signature (other than a final appearance and verification by the oath of the applicant prior to or at the time of the individual's application for admission to the United States), waiver of signature for individuals under 5 years old, and any other capability the Secretary of State and the Secretary consider appropriate, secure, and likely to reduce processing wait times at particular facilities.

(d) MONTHLY ARRIVAL REPORTS.—With respect to monthly reports issued by the Secretary of State relating to United States Refugee Admissions Program arrivals, the Secretary of State shall report—

(1) the number of monthly admissions of refugees, disaggregated by priorities; and

(2) the number of Afghan allies admitted as refugees.

(e) INTERAGENCY TASK FORCE ON AFGHAN ALLY STRATEGY.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the President shall establish an Interagency Task Force on Afghan Ally Strategy (referred to in this section as the ''Task Force'')—

(A) to develop and oversee the implementation of the strategy and contingency plan described in subparagraph (A)(i) of paragraph (4); and

(B) to submit the report, and provide a briefing on the report, as described in subparagraphs (A) and (B) of paragraph (4).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Task Force shall include—

(i) 1 or more representatives from each relevant Federal agency, as designated by the head of the applicable relevant Federal agency; and

(ii) any other Federal Government official designated by the President.

(B) RELEVANT FEDERAL AGENCY DEFINED.—In this paragraph, the term ''relevant Federal agency'' means—

(i) the Department of State;

(ii) the Department Homeland Security;

(iii) the Department of Defense;

(iv) the Department of Health and Human Services;

(v) the Federal Bureau of Investigation; and

(vi) the Office of the Director of National Intelligence.

(3) CHAIR.—The Task Force shall be chaired by the Secretary of State.

(4) DUTIES.—

(A) REPORT.—

(i) IN GENERAL.—Not later than 180 days after the date on which the Task Force is established, the Task Force, acting through the chair of the Task Force, shall submit a report to the appropriate committees of Congress that includes—

(I) a strategy for facilitating the resettlement of nationals of Afghanistan outside the United States who, during the period beginning on October 1, 2001, and ending on September 1, 2021, directly and personally supported the United States mission in Afghanistan, as determined by the Secretary of State in consultation with the Secretary of Defense; and

(II) a contingency plan for future emergency operations in foreign countries involving foreign nationals who have worked directly with the United States Government, including the Armed Forces of the United States and United States intelligence agencies.

(ii) ELEMENTS.—The report required under clause (i) shall include—

(I) the total number of nationals of Afghanistan who have pending specified applications, disaggregated by—

(aa) such nationals in Afghanistan and such nationals in a third country;

(bb) type of specified application; and

(cc) applications that are documentarily complete and applications that are not documentarily complete;

(II) an estimate of the number of nationals of Afghanistan who may be eligible for special immigrant status;

(III) with respect to the strategy required under subparagraph (A)(i)(I)—

(aa) the estimated number of nationals of Afghanistan described in such subparagraph;

(bb) a description of the process for safely resettling such nationals of Afghanistan;

(cc) a plan for processing such nationals of Afghanistan for admission to the United States that—

(AA) discusses the feasibility of remote processing for such nationals of Afghanistan residing in Afghanistan;

(BB) includes any strategy for facilitating refugee and consular processing for such nationals of Afghanistan in third countries, and the timelines for such processing;

(CC) includes a plan for conducting rigorous and efficient vetting of all such nationals of Afghanistan for processing;

(DD) discusses the availability and capacity of sites in third countries to process applications and conduct any required vetting for such nationals of Afghanistan, including the potential to establish additional sites; and

(EE) includes a plan for providing updates and necessary information to affected individuals and relevant nongovernmental organizations;

(dd) a description of considerations, including resource constraints, security concerns, missing or inaccurate information, and diplomatic considerations, that limit the ability of the Secretary of State or the Secretary to increase the number of such nationals of Afghanistan who can be safely processed or resettled;

(ee) an identification of any resource or additional authority necessary to increase the number of such nationals of Afghanistan who can be processed or resettled;

(ff) an estimate of the cost to fully implement the strategy; and

(gg) any other matter the Task Force considers relevant to the implementation of the strategy;

(IV) with respect to the contingency plan required by clause (i)(II)—

(aa) a description of the standard practices for screening and vetting foreign nationals considered to be eligible for resettlement in the United States, including a strategy for vetting, and maintaining the records of, such foreign nationals who are unable to provide identification documents or biographic details due to emergency circumstances;

(bb) a strategy for facilitating refugee or consular processing for such foreign nationals in third countries;

(cc) clear guidance with respect to which Federal agency has the authority and responsibility to coordinate Federal resettlement efforts;

(dd) a description of any resource or additional authority necessary to coordinate Federal resettlement efforts, including the need for a contingency fund;

(ee) any other matter the Task Force considers relevant to the implementation of the contingency plan; and

(V) a strategy for the efficient processing of all Afghan special immigrant visa applications and appeals, including—

(aa) a review of current staffing levels and needs across all interagency offices and officials engaged in the special immigrant visa process;

(bb) an analysis of the expected Chief of Mission approvals and denials of applications in the pipeline in order to project the expected number of visas necessary to provide special immigrant status to all approved applicants under this subtitle during the several years after the date of the enactment of this Act;

(cc) an assessment as to whether adequate guidelines exist for reconsidering or reopening applications for special immigrant visas in appropriate circumstances and consistent with applicable laws; and

(dd) an assessment of the procedures throughout the special immigrant visa application process, including at the Portsmouth Consular Center, and the effectiveness of communication between the Portsmouth Consular Center and applicants, including an identification of any area in which improvements to the efficiency of such procedures and communication may be made.

(iii) FORM.—The report required under clause (i) shall be submitted in unclassified form but may include a classified annex.

(B) BRIEFING.—Not later than 60 days after submitting the report required by clause (i), the Task Force shall brief the appropriate committees of Congress on the contents of the report.

(5) TERMINATION.—The Task Force shall remain in effect until the later of—

(A) the date on which the strategy required under paragraph (4)(A)(i)(I) has been fully implemented;

(B) the date of a determination by the Secretary of State, in consultation with the Secretary of Defense and the Secretary, that a task force is no longer necessary for the implementation of subparagraphs (A) and (B) of paragraph (1); or

(C) the date that is 10 years after the date of the enactment of this Act.

(f) IMPROVING CONSULTATION WITH CONGRESS.—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended—

(1) in subsection (a), by amending paragraph (4) to read as follows:

''(4)(A) In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.

''(B) In making a determination under paragraph (1), the President shall consider the information in the most recently published projected global resettlement needs report published by the United Nations High Commissioner for Refugees.'';

(2) in subsection (e), by amending paragraph (2) to read as follows:

''(2) A description of the number and allocation of the refugees to be admitted, including the expected allocation by region, and an analysis of the conditions within the countries from which they came.''; and

(3) by adding at the end the following—

''(g) QUARTERLY REPORTS ON ADMISSIONS.—Not later than 30 days after the last day of each quarter beginning the fourth quarter of fiscal year 2024, the President shall submit to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Foreign Relations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Foreign Affairs of the House of Representatives a report that includes the following:

''(1) REFUGEES ADMITTED.—

''(A) The number of refugees admitted to the United States during the preceding quarter.

''(B) The cumulative number of refugees admitted to the United States during the applicable fiscal year, as of the last day of the preceding quarter.

''(C) The number of refugees expected to be admitted to the United States during the remainder of the applicable fiscal year.

''(D) The number of refugees from each region admitted to the United States during the preceding quarter.

''(2) ALIENS WITH PENDING SECURITY CHECKS.—With respect only to aliens processed under section 101(a)(27)(N), subtitle C of title III of the Border Act, or section 602(b)(2)(A)(ii)(II) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8)—

''(A) the number of aliens, by nationality, security check, and responsible vetting agency, for whom a National Vetting Center or other security check has been requested during the preceding quarter, and the number of aliens, by nationality, for whom the check was pending beyond 30 days; and

''(B) the number of aliens, by nationality, security check, and responsible vetting agency, for whom a National Vetting Center or other security check has been pending for more than 180 days.

''(3) CIRCUIT RIDES.—

''(A) For the preceding quarter—

''(i) the number of Refugee Corps officers deployed on circuit rides and the overall number of Refugee Corps officers;

''(ii) the number of individuals interviewed—

''(I) on each circuit ride; and

''(II) at each circuit ride location;

''(iii) the number of circuit rides; and

''(iv) for each circuit ride, the duration of the circuit ride.

''(B) For the subsequent 2 quarters, the number of circuit rides planned.

''(4) PROCESSING.—

''(A) For refugees admitted to the United States during the preceding quarter, the average number of days between—

''(i) the date on which an individual referred to the United States Government as a refugee applicant is interviewed by the Secretary of Homeland Security; and

''(ii) the date on which such individual is admitted to the United States.

''(B) For refugee applicants interviewed by the Secretary of Homeland Security in the preceding quarter, the approval, denial, recommended approval, recommended denial, and hold rates for the applications for admission of such individuals, disaggregated by nationality.''.

SEC. 4326. SUPPORT FOR CERTAIN VULNERABLE AFGHANS RELATING TO EMPLOYMENT BY OR ON BEHALF OF THE UNITED STATES.

(a) SPECIAL IMMIGRANT VISAS FOR CERTAIN RELATIVES OF CERTAIN MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L)(iii), by adding a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(N) a citizen or national of Afghanistan who is the parent or brother or sister of—

''(i) a member of the armed forces (as defined in section 101(a) of title 10, United States Code); or

''(ii) a veteran (as defined in section 101 of title 38, United States Code).''.

(2) NUMERICAL LIMITATIONS.—

(A) IN GENERAL.—Subject to subparagraph (C), the total number of principal aliens who may be provided special immigrant visas under subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as added by paragraph (1), may not exceed 2,500 each fiscal year.

(B) CARRYOVER.—If the numerical limitation specified in subparagraph (A) is not reached during a given fiscal year, the numerical limitation specified in such subparagraph for the following fiscal year shall be increased by a number equal to the difference between—

(i) the numerical limitation specified in subparagraph (A) for the given fiscal year; and

(ii) the number of principal aliens provided special immigrant visas under subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) during the given fiscal year.

(C) MAXIMUM NUMBER OF VISAS.—The total number of aliens who may be provided special immigrant visas under subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall not exceed 10,000.

(D) DURATION OF AUTHORITY.—The authority to issue visas under subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall—

(i) commence on the date of the enactment of this Act; and

(ii) terminate on the date on which all such visas are exhausted.

(b) CERTAIN AFGHANS INJURED OR KILLED IN THE COURSE OF EMPLOYMENT.—Section 602(b) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is amended—

(1) in paragraph (2)(A)—

(A) by amending clause (ii) to read as follows:

''(ii)(I) was or is employed in Afghanistan on or after October 7, 2001, for not less than 1 year—

''(aa) by, or on behalf of, the United States Government; or

''(bb) by the International Security Assistance Force (or any successor name for such Force) in a capacity that required the alien—

''(AA) while traveling off-base with United States military personnel stationed at the International Security Assistance Force (or any successor name for such Force), to serve as an interpreter or translator for such United States military personnel; or

''(BB) to perform activities for the United States military personnel stationed at International Security Assistance Force (or any successor name for such Force); or

''(II) in the case of an alien who was wounded or seriously injured in connection with employment described in subclause (I), was employed for any period until the date on which such wound or injury occurred, if the wound or injury prevented the alien from continuing such employment;''; and

(B) in clause (iii), by striking ''clause (ii)'' and inserting ''clause (ii)(I)'';

(2) in paragraph (13)(A)(i), by striking ''subclause (I) or (II)(bb) of paragraph (2)(A)(ii)'' and inserting ''item (aa) or (bb)(BB) of paragraph (2)(A)(ii)(I)'';

(3) in paragraph (14)(C), by striking ''paragraph (2)(A)(ii)'' and inserting ''paragraph (2)(A)(ii)(I)''; and

(4) in paragraph (15), by striking ''paragraph (2)(A)(ii)'' and inserting ''paragraph (2)(A)(ii)(I)''.

(c) EXTENSION OF SPECIAL IMMIGRANT VISA PROGRAM UNDER AFGHAN ALLIES PROTECTION ACT OF 2009.—Section 602(b) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is amended—

(1) in paragraph (3)(F)—

(A) in the subparagraph heading, by striking ''FISCAL YEARS 2015 THROUGH 2022'' and inserting ''FISCAL YEARS 2015 THROUGH 2029''; and

(B) in clause (i), by striking ''December 31, 2024'' and inserting ''December 31, 2029''; and

(C) in clause (ii), by striking ''December 31, 2024'' and inserting ''December 31, 2029''; and

(2) in paragraph (13), in the matter preceding subparagraph (A), by striking ''January 31, 2024'' and inserting ''January 31, 2030''.

(d) AUTHORIZATION OF VIRTUAL INTERVIEWS.—Section 602(b)(4) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8;) is amended by adding at the end the following:

''(D) VIRTUAL INTERVIEWS.—Notwithstanding section 222(e) of the Immigration and Nationality Act (8 U.S.C. 1202(e)), an application for an immigrant visa under this section may be signed by the applicant through a virtual video meeting before a consular officer and verified by the oath of

the applicant administered by the consular officer during a virtual video meeting.''.

(e) QUARTERLY REPORTS.—Paragraph (12) of section 602(b) of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8) is amended is amended to read as follows:

''(12) QUARTERLY REPORTS.—

''(A) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of the Border Act and every 90 days thereafter, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall submit to the appropriate committees of Congress a report that includes the following:

''(i) For the preceding quarter—

''(I) a description of improvements made to the processing of special immigrant visas and refugee processing for citizens and nationals of Afghanistan;

''(II) the number of new Afghan referrals to the United States Refugee Admissions Program, disaggregated by referring entity;

''(III) the number of interviews of Afghans conducted by U.S. Citizenship and Immigration Services, disaggregated by the country in which such interviews took place;

''(IV) the number of approvals and the number of denials of refugee status requests for Afghans;

''(V) the number of total admissions to the United States of Afghan refugees;

''(VI) number of such admissions, disaggregated by whether the refugees come from within, or outside of, Afghanistan;

''(VII) the average processing time for citizens and nationals of Afghanistan who are applicants for referral under section 4324 of the Border Act;

''(VIII) the number of such cases processed within such average processing time; and

''(IX) the number of denials issued with respect to applications by citizens and nationals of Afghanistan for referrals under section 4324 of the Border Act.

''(ii) The number of applications by citizens and nationals of Afghanistan for refugee referrals pending as of the date of submission of the report.

''(iii) A description of the efficiency improvements made in the process by which applications for special immigrant visas under this subsection are processed, including information described in clauses (iii) through (viii) of paragraph (11)(B).

''(B) FORM OF REPORT.—Each report required by subparagraph (A) shall be submitted in unclassified form but may contain a classified annex.

''(C) PUBLIC POSTING.—The Secretary of State shall publish on the website of the Department of State the unclassified portion of each report submitted under subparagraph (A).''.

(f) GENERAL PROVISIONS.—

(1) PROHIBITION ON FEES.—The Secretary, the Secretary of Defense, or the Secretary of State may not charge any fee in connection with an application for, or issuance of, a special immigrant visa or special immigrant status under—

(A) section 602 of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8);

(B) section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note; Public Law 109–163); or

(C) subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as added by subsection (a)(1).

(2) DEFENSE PERSONNEL.—Any limitation in law with respect to the number of personnel within the Office of the Secretary of Defense, the military departments, or a Defense Agency (as defined in section 101(a) of title 10, United States Code) shall not apply to personnel employed for the primary purpose of carrying out this section.

(3) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the head of any other appropriate Federal agency, shall make a reasonable effort to provide an alien who is seeking status as a special immigrant under subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as added by subsection (a)(1), protection or to immediately remove such alien from Afghanistan, if possible.

(4) RESETTLEMENT SUPPORT.—A citizen or national of Afghanistan who is admitted to the United States under this section or an amendment made by this section shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

SEC. 4327. SUPPORT FOR ALLIES SEEKING RESETTLEMENT IN THE UNITED STATES.

Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act and ending on the date that is 10 years thereafter, the Secretary and the Secretary of State may waive any fee or surcharge or exempt individuals from the payment of any fee or surcharge collected by the Department of Homeland Security and the Department of State, respectively, in connection with a petition or application for, or issuance of, an immigrant visa to a national of Afghanistan under section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i) and 1153(a)), respectively.

SEC. 4328. REPORTING.

(a) QUARTERLY REPORTS.—Beginning on January 1, 2028, not less frequently than quarterly, the Secretary shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes, for the preceding quarter—

(1) the number of individuals granted conditional permanent resident status under section 4323, disaggregated by the number of such individuals for whom conditions have been removed;

(2) the number of individuals granted conditional permanent resident status under section 4323 who have been determined to be ineligible for removal of conditions (and the reasons for such determination); and

(3) the number of individuals granted conditional permanent resident status under section 4323 for whom no such determination has been made (and the reasons for the lack of such determination).

(b) ANNUAL REPORTS.—Not less frequently than annually, the Secretary, in consultation with the Attorney General, shall submit to the appropriate committees of Congress a report that includes for the preceding year, with respect to individuals granted conditional permanent resident status under section 4323—

(1) the number of such individuals who are placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) charged with a ground of deportability under subsection (a)(2) of section 237 of that Act (8 U.S.C. 1227), disaggregated by each applicable ground under that subsection;

(2) the number of such individuals who are placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) charged with a ground of deportability under subsection (a)(3) of section 237 of that Act (8 U.S.C. 1227), disaggregated by each applicable ground under that subsection;

(3) the number of final orders of removal issued pursuant to proceedings described in paragraphs (1) and (2), disaggregated by each applicable ground of deportability;

(4) the number of such individuals for whom such proceedings are pending, disaggregated by each applicable ground of deportability; and

(5) a review of the available options for removal from the United States, including any changes in the feasibility of such options during the preceding year.

TITLE IV—PROMOTING LEGAL IMMIGRATION

SEC. 4401. EMPLOYMENT AUTHORIZATION FOR FIANCÉS, FIANCÉES, SPOUSES, AND CHILDREN OF UNITED STATES CITIZENS AND SPECIALTY WORKERS.

Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended by adding at the end the following:

''(15) The Secretary of Homeland Security shall authorize an alien fiancé, fiancée, or spouse admitted pursuant to clause (i) or (ii) of section 101(a)(15)(K), or any child admitted pursuant to section 101(a)(15)(K)(iii) to engage in employment in the United States incident to such status and shall provide the alien with an 'employment authorized' endorsement during the period of authorized admission.

''(16) Upon the receipt of a completed petition described in subparagraph (E) or (F) of section 204(a)(1) for a principal alien who has been admitted pursuant to section 101(a)(15)(H)(i)(b), the Secretary of Homeland Security shall authorize the alien spouse or child of such principal alien who has been admitted under section 101(a)(15)(H) to accompany or follow to join a principal alien admitted under such section, to engage in employment in the United States incident to such status and shall provide the alien with an 'employment authorized' endorsement during the period of authorized admission.''.

SEC. 4402. ADDITIONAL VISAS.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) in subsection (c)—

(A) by adding at the end the following:

''(6)(A) For fiscal years 2025, 2026, 2027, 2028, and 2029—

''(i) 512,000 shall be substituted for 480,000 in paragraph (1)(A)(i); and

''(ii) 258,000 shall be substituted for 226,000 in paragraph (1)(B)(i)(i).

''(B) The additional visas authorized under subparagraph (A)—

''(i) shall be issued each fiscal year;

''(ii) shall remain available in any fiscal year until issued; and

''(iii) shall be allocated in accordance with this section and sections 202 and 203.''; and

(2) in subsection (d), by adding at the end the following:

''(3)(A) For fiscal years 2025, 2026, 2027, 2028, and 2029, 158,000 shall be substituted for 140,000 in paragraph (1)(A).

''(B) The additional visas authorized under subparagraph (A)—

''(i) shall be issued each fiscal year;

''(ii) shall remain available in any fiscal year until issued; and

''(iii) shall be allocated in accordance with this section and section 202 and 203.''.

SEC. 4403. CHILDREN OF LONG-TERM VISA HOLDERS.

(a) MAINTAINING FAMILY UNITY FOR CHILDREN OF LONG-TERM H–1B NONIMMIGRANTS AFFECTED BY DELAYS IN VISA AVAILABILITY.—Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by adding at the end the following:

''(6) CHILD STATUS DETERMINATION FOR CERTAIN DEPENDENT CHILDREN OF H-1B NONIMMIGRANTS.—

''(A) DETERMINATIVE FACTORS.—For purposes of subsection (d), the determination of

whether an alien described in subparagraph (B) satisfies the age and marital status requirements set forth in section 101(b)(1) shall be made using the alien's age and marital status on the date on which an initial petition as a nonimmigrant described in section 101(a)(15)(H)(i)(b) was filed on behalf of the alien's parent, if such petition was approved.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if such alien—

''(i) maintained, for an aggregate period of at least 8 years before reaching 21 years of age, the status of a dependent child of a nonimmigrant described in section 101(a)(15)(H)(i)(b) pursuant to a lawful admission; and

''(ii)(I) sought to acquire the status of an alien lawfully admitted for permanent residence during the 2-year period beginning on the date on which an immigrant visa became available to such alien; or

''(II) demonstrates, by clear and convincing evidence, that the alien's failure to seek such status during such 2-year period was due to extraordinary circumstances.''.

(b) NONIMMIGRANT DEPENDENT CHILDREN OF H-1B NONIMMIGRANTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s) CHILD DERIVATIVE BENEFICIARIES OF H-1B NONIMMIGRANTS.—

''(1) AGE DETERMINATION.—In the case of an alien who maintained, for an aggregate period of at least 8 years before reaching 21 years of age, the status of a dependent child of a nonimmigrant described in section 101(a)(15)(H)(i)(b) pursuant to a lawful admission, such alien's age shall be determined based on the date on which an initial petition for classification under such section was filed on behalf of the alien's parent, if such petition is approved.

''(2) LONG-TERM DEPENDENTS.—Notwithstanding the alien's actual age or marital status, an alien who is determined to be a child under paragraph (1) and is otherwise eligible may change status to, or extend status as, a dependent child of a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the alien's parent—

''(A) maintains lawful status under such section;

''(B) has an employment-based immigrant visa petition that has been approved pursuant to section 203(b); and

''(C) has not yet had an opportunity to seek an immigrant visa or adjust status under section 245.

''(3) EMPLOYMENT AUTHORIZATION.—An alien who is determined to be a child under paragraph (1) is authorized to engage in employment in the United States incident to the status of his or her nonimmigrant parent.

''(4) SURVIVING RELATIVE CONSIDERATION.—Notwithstanding the death of the qualifying relative, an alien who is determined to be a child under paragraph (1) is authorized to extend status as a dependent child of a nonimmigrant described in section 101(a)(15)(H)(i)(b).''.

(c) MOTION TO REOPEN OR RECONSIDER.—

(1) IN GENERAL.—A motion to reopen or reconsider the denial of a petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) and a subsequent application for an immigrant visa or adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), may be granted if—

(A) such petition or application would have been approved if—

(i) section 203(h)(6) of the Immigration and Nationality Act, as added by subsection (a), had been in effect when the petition or application was adjudicated; and

(ii) the person concerned remains eligible for the requested benefit;

(B) the individual seeking relief pursuant to such motion was in the United States at the time the underlying petition or application was filed; and

(C) such motion is filed with the Secretary or the Attorney General not later than the date that is 2 years after the date of the enactment of this Act.

(2) PROTECTION FROM REMOVAL.—Notwithstanding any other provision of the law, the Attorney General and the Secretary—

(A) may not initiate removal proceedings against or remove any alien who has a pending nonfrivolous motion under paragraph (1) or is seeking to file such a motion unless—

(i) the alien is a danger to the community or a national security risk; or

(ii) initiating a removal proceeding with respect to such alien is in the public interest; and

(B) shall provide aliens with a reasonable opportunity to file such a motion.

(3) EMPLOYMENT AUTHORIZATION.—An alien with a pending, nonfrivolous motion under this subsection shall be authorized to engage in employment through the date on which a final administrative decision regarding such motion has been made.

SEC. 4404. MILITARY NATURALIZATION MODERNIZATION.

(a) IN GENERAL.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421 et seq.) is amended—

(1) by striking section 328 (8 U.S.C. 1439); and

(2) in section 329 (8 U.S.C. 1440)—

(A) by amending the section heading to read as follows: ''**NATURALIZATION THROUGH SERVICE IN THE SELECTED RESERVE OR IN ACTIVE-DUTY STATUS**.—'';

(B) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking ''during either'' and all that follows through ''foreign force'';

(ii) in paragraph (1)—

(I) by striking ''America Samoa, or Swains Island'' and inserting ''American Samoa, Swains Island, or any of the freely associated States (as defined in section 611(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(b)(1)(C)),''; and

(II) by striking ''he'' and inserting ''such person''; and

(iii) in paragraph (2), by striking ''in an active-duty status, and whether separation from such service was under honorable conditions'' and inserting ''in accordance with subsection (b)(3)''; and

(C) in subsection (b)—

(i) in paragraph (1), by striking ''he'' and inserting ''such person''; and

(ii) in paragraph (3), by striking ''an active-duty status'' and all that follows through ''foreign force, and'' and inserting ''in an active status (as defined in section 101(d) of title 10, United States Code), in the Selected Reserve of the Ready Reserve, or on active duty (as defined in such section) and, if separated''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the items relating to sections 328 and 329 and inserting the following:

''Sec. 329. Naturalization through service in the Selected Reserve or in active-duty status.''.

SEC. 4405. TEMPORARY FAMILY VISITS.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT VISA SUBCATEGORY.—Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) is amended by striking ''temporarily for business or temporarily for pleasure;'' and inserting ''temporarily for—

''(i) business;

''(ii) pleasure; or

''(iii) family purposes;''.

(b) REQUIREMENTS APPLICABLE TO FAMILY PURPOSES VISAS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 4403(b), is further amended by adding at the end the following:

''(t) REQUIREMENTS APPLICABLE TO FAMILY PURPOSES VISAS.—

''(1) DEFINED TERM.—In this subsection and in section 101(a)(15)(B)(iii), the term 'family purposes' means any visit by a relative for a social, occasional, major life, or religious event, or for any other purpose.

''(2) FAMILY PURPOSES VISA.—Except as provided in paragraph (3), family travel for pleasure is authorized pursuant to the policies, terms, and conditions in effect on the day before the date of the enactment of the Border Act.

''(3) SPECIAL RULES FOR FAMILY PURPOSES VISAS FOR ALIENS AWAITING IMMIGRANT VISAS.—

''(A) NOTIFICATION OF APPROVED PETITION.—A visa may not be issued to a relative under section 101(a)(15)(B)(iii) until after the consular officer is notified that the Secretary of Homeland Security has approved a petition filed in the United States by a family member of the relative who is a United States citizen or lawful permanent resident.

''(B) PETITION.—A petition referred to in subparagraph (A) shall—

''(i) be in such form and contain such information as the Secretary may prescribe by regulation; and

''(ii) shall include—

''(I) a declaration of financial support, affirming that the petitioner will provide financial support to the relative for the duration of his or her temporary stay in the United States;

''(II) evidence that the relative has—

''(aa) obtained, for the duration of his or her stay in the United States, a short-term travel medical insurance policy; or

''(bb) an existing health insurance policy that provides coverage for international medical expenses; and

''(III) a declaration from the relative, under penalty of perjury, affirming the relative's—

''(aa) intent to depart the United States at the conclusion of the relative's period of authorized admission; and

''(bb) awareness of the penalties for overstaying such period of authorized admission.

''(4) PETITIONER ELIGIBILITY.—

''(A) IN GENERAL.—Absent extraordinary circumstances, an individual may not petition for the admission of a relative as a nonimmigrant described in section 101(a)(15)(B)(iii) if such individual previously petitioned for the admission of such a relative who—

''(i) was admitted to the United States pursuant to a visa issued under such section as a result of such petition; and

''(ii) overstayed his or her period of authorized admission.

''(B) PREVIOUS PETITIONERS.—

''(i) IN GENERAL.—An individual filing a declaration of financial support on behalf of a relative seeking admission as a nonimmigrant described in section 101(a)(15)(B)(iii) who has previously provided a declaration of financial support for such a relative shall—

''(I) certify to the Secretary of Homeland Security that the relative whose admission the individual previously supported did not overstay his or her period of authorized admission; or

''(II) explain why the relative's overstay was due to extraordinary circumstances beyond the control of the relative.

''(ii) CRIMINAL PENALTY FOR FALSE STATEMENT.—A certification under clause (i)(I)

shall be subject to the requirements under section 1001 of title 18, United States Code.

''(C) WAIVER.—The Secretary of Homeland Security may waive the application of section 212(a)(9)(B) in the case of a nonimmigrant described in section 101(a)(15)(B)(iii) who overstayed his or her period of authorized admission due to extraordinary circumstances beyond the control of the nonimmigrant.''.

(c) RESTRICTION ON CHANGE OF STATUS.—Section 248(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1258(a)(1)) is amended by inserting ''(B)(iii),'' after ''subparagraph''.

(d) FAMILY PURPOSE VISA ELIGIBILITY WHILE AWAITING IMMIGRANT VISA.—

(1) IN GENERAL.—Notwithstanding section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)), a nonimmigrant described in section 101(a)(15)(B)(iii) of such Act, as added by subsection (a), who has been classified as an immigrant under section 201 of such Act (8 U.S.C. 1151) and is awaiting the availability of an immigrant visa subject to the numerical limitations under section 203 of such Act (8 U.S.C. 1153) may be admitted pursuant to a family purposes visa, in accordance with section 214(t) of such Act, as added by subsection (b), if the individual is otherwise eligible for admission.

(2) LIMITATION.—An alien admitted under section 101(a)(15)(B)(iii) of the Immigration and Nationality Act, pursuant to section 214(t)(3) of such Act, as added by subsection (b), may not be considered to have been admitted to the United States for purposes of section 245(a) of such Act (8 U.S.C. 1255(a)).

(e) RULE OF CONSTRUCTION.—Nothing in this section, or in the amendments made by this section, may be construed as—

(1) limiting the authority of immigration officers to refuse to admit to the United States an applicant under section 101(a)(15)(B)(iii) of the Immigration and Nationality Act, as added by subsection (a), who fails to meet 1 or more of the criteria under section 214(t) of such Act, as added by subsection (b), or who is inadmissible under section 212(a) of such Act (8 U.S.C. 1182(a)); or

(2) precluding the use of section 101(a)(15)(B)(ii) of the Immigration and Nationality Act, as added by subsection (a), for family travel for pleasure in accordance with the policies and procedures in effect on the day before the date of the enactment of this Act.

TITLE V—SELF-SUFFICIENCY AND DUE PROCESS

Subtitle A—Work Authorizations

SEC. 4501. WORK AUTHORIZATION.

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

''(2) EMPLOYMENT ELIGIBILITY.—Except as provided in section 235C—

''(A) an applicant for asylum is not entitled to employment authorization, but such authorization may be provided by the Secretary of Homeland Security by regulation; and

''(B) an applicant who is not otherwise eligible for employment authorization may not be granted employment authorization under this section before the date that is 180 days after the date on which the applicant files an application for asylum.''.

SEC. 4502. EMPLOYMENT ELIGIBILITY.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.), as amended by section 4141(a), is further amended by adding at the end the following:

''SEC. 235C. EMPLOYMENT ELIGIBILITY.

''(a) EXPEDITED EMPLOYMENT ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall authorize employment for any alien who—

''(A)(i) is processed under the procedures described in section 235(b)(1) and receives a positive protection determination pursuant to such procedures; or

''(ii)(I) is processed under the procedures described in section 235B; and

''(II)(aa) receives a positive protection determination and is subsequently referred under section 235B(c)(2)(B)(i) for a protection merits interview; or

''(bb) is referred under section 235B(f)(1) for a protection merits interview; and

''(B) is released from the physical custody of the Secretary of Homeland Security.

''(2) APPLICATION.—The Secretary of Homeland Security shall grant employment authorization to—

''(A) an alien described in paragraph (1)(A)(i) immediately upon such alien's release from physical custody;

''(B) an alien described in paragraph (1)(A)(ii)(II)(aa) at the time such alien receives a positive protection determination or is referred for a protection merits interview; and

''(C) an alien described in paragraph (1)(A)(ii)(II)(bb) on the date that is 30 days after the date on which such alien files an application pursuant to section 235B(f).

''(b) TERM.—Employment authorization under this section—

''(1) shall be for an initial period of 2 years; and

''(2) shall be renewable, as applicable—

''(A) for additional 2-year periods while the alien is in protection merits removal proceedings, including while the outcome of the protection merits interview is under administrative or judicial review; or

''(B) until the date on which—

''(i) the alien receives a negative protection merits determination; or

''(ii) the alien otherwise receives employment authorization under any other provision of this Act.

''(c) RULES OF CONSTRUCTION.—

''(1) DETENTION.—Nothing in this section may be construed to expand or restrict the authority of the Secretary of Homeland Security to detain or release from detention an alien, if such detention or release from detention is authorized by law.

''(2) LIMITATION ON AUTHORITY.—The Secretary of Homeland Security may not authorize for employment in the United States an alien being processed under section 235(b)(1) or 235B in any circumstance not explicitly described in this section.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 235B, as added by section 4141(b), the following:

''Sec. 235C. Employment eligibility.''.

Subtitle B—Protecting Due Process

SEC. 4511. ACCESS TO COUNSEL.

(a) IN GENERAL.—Section 235(b)(1)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)(iv)) is amended to read as follows:

''(iv) INFORMATION ABOUT PROTECTION DETERMINATIONS.—

''(I) IN GENERAL.—The Secretary of Homeland Security shall provide an alien with information in plain language regarding protection determinations conducted under this section, including the information described in subclause (II)—

''(aa) at the time of the initial processing of the alien; and

''(bb) to the maximum extent practicable, in the alien's native language or in a language the alien understands.

''(II) INFORMATION DESCRIBED.—The information described in this subclause is information relating to—

''(aa) the rights and obligations of the alien during a protection determination;

''(bb) the process by which a protection determination is conducted;

''(cc) the procedures to be followed by the alien in a protection determination; and

''(dd) the possible consequences of—

''(AA) not complying with the obligations referred to in item (aa); and

''(BB) not cooperating with Federal authorities.

''(III) ACCESSIBILITY.—An alien who has a limitation that renders the alien unable to read written materials provided under subclause (I) shall receive an interpretation of such materials in the alien's native language, to the maximum extent practicable, or in a language and format the alien understands.

''(IV) TIMING OF PROTECTION DETERMINATION.—

''(aa) IN GENERAL.—The protection determination of an alien shall not occur earlier than 72 hours after the provision of the information described in subclauses (I) and (II).

''(bb) WAIVER.—An alien may—

''(AA) waive the 72-hour requirement under item (aa) only if the alien knowingly and voluntarily does so, only in a written format or in an alternative record if the alien is unable to write, and only after the alien receives the information required to be provided under subclause (I); and

''(BB) consult with an individual of the alien's choosing in accordance with subclause (V) before waiving such requirement.

''(V) CONSULTATION.—

''(aa) IN GENERAL.—An alien who is eligible for a protection determination may consult with one or more individuals of the alien's choosing before the screening or interview, or any review of such a screening or interview, in accordance with regulations prescribed by the Secretary of Homeland Security.

''(bb) LIMITATION.—Consultation described in item (aa) shall be at no expense to the Federal Government.

''(cc) PARTICIPATION IN INTERVIEW.—An individual chosen by the alien may participate in the protection determination of the alien conducted under this subparagraph.

''(dd) ACCESS.—The Secretary of Homeland Security shall ensure that a detained alien has effective access to the individuals chosen by the alien, which may include physical access, telephonic access, and access by electronic communication.

''(ee) INCLUSIONS.—Consultations under this subclause may include—

''(AA) consultation with an individual authorized by the Department of Justice through the Recognition and Accreditation Program; and

''(BB) consultation with an attorney licensed under applicable law.

''(ff) RULES OF CONSTRUCTION.—Nothing in this subclause may be construed—

''(AA) to require the Federal Government to pay for any consultation authorized under item (aa);

''(BB) to invalidate or limit the remedies, rights, and procedures of any Federal law that provides protection for the rights of individuals with disabilities; or

''(CC) to contravene or limit the obligations under the Vienna Convention on Consular Relations done at Vienna April 24, 1963.''.

(b) CONFORMING AMENDMENT.—Section 238(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1228(a)(2)) is amended by striking ''make reasonable efforts to ensure that the alien's access to counsel'' and inserting ''ensure that the alien's access to counsel, pursuant to section 235(b)(1)(B)(iv),''.

SEC. 4512. COUNSEL FOR CERTAIN UNACCOMPANIED ALIEN CHILDREN.

Section 235(c)(5) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(5)) is amended to read as follows:

''(5) ACCESS TO COUNSEL.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Health and Human Services shall ensure, to the greatest extent practicable and consistent with section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), that all unaccompanied alien children who are or have been in the custody of the Secretary of Health and Human Services or the Secretary of Homeland Security, and who are not described in subsection (a)(2)(A), have counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking. To the greatest extent practicable, the Secretary of Health and Human Services shall make every effort to utilize the services of pro bono counsel who agree to provide representation to such children without charge.

''(B) EXCEPTION FOR CERTAIN CHILDREN.—

''(i) IN GENERAL.—An unaccompanied alien child who is 13 years of age or younger, and who is placed in or referred to removal proceedings pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a), shall be represented by counsel subject to clause (v).

''(ii) AGE DETERMINATIONS.—The Secretary of Health and Human Services shall ensure that age determinations of unaccompanied alien children are conducted in accordance with the procedures developed pursuant to subsection (b)(4).

''(iii) APPEALS.—The rights and privileges under this subparagraph—

''(I) shall not attach to—

''(aa) an unaccompanied alien child after the date on which—

''(AA) the removal proceedings of the child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) terminate;

''(BB) an order of removal with respect to the child becomes final; or

''(CC) an immigration benefit is granted to the child; or

''(bb) an appeal to a district court or court of appeals of the United States, unless certified by the Secretary as a case of extraordinary importance; and

''(II) shall attach to administrative reviews and appeals.

''(iv) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of the Border Act, the Secretary of Health and Human Services shall implement this subparagraph

''(v) REMEDIES.—

''(I) IN GENERAL.—For the population described in clause (i) of this subparagraph and subsection (b)(1) of section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), declaratory judgment that the unaccompanied alien child has a right to be referred to counsel, including pro-bono counsel, or a continuance of immigration proceedings, shall be the exclusive remedies available, other than for those funds subject to appropriations.

''(II) SETTLEMENTS.—Any settlement under this subparagraph shall be subject to appropriations.''.

SEC. 4513. COUNSEL FOR CERTAIN INCOMPETENT INDIVIDUALS.

Section 240 of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) REPRESENTATION FOR CERTAIN INCOMPETENT ALIENS.—

''(1) IN GENERAL.—The immigration judge is authorized to appoint legal counsel or a certified representative accredited through the Department of Justice to represent an alien in removal proceedings if—

''(A) pro bono counsel is not available; and

''(B) the alien—

''(i) is unrepresented;

''(ii) was found by an immigration judge to be incompetent to represent themselves; and

''(iii) has been placed in or referred to removal proceedings pursuant to this section.

''(2) DETERMINATION ON COMPETENCE.—

''(A) PRESUMPTION OF COMPETENCE.—An alien is presumed to be competent to participate in removal proceedings and has the duty to raise the issue of competency. If there are no indicia of incompetency in an alien's case, no further inquiry regarding competency is required.

''(B) DECISION OF THE IMMIGRATION JUDGE.—

''(i) IN GENERAL.—If there are indicia of incompetency, the immigration judge shall consider whether there is good cause to believe that the alien lacks sufficient competency to proceed without additional safeguards.

''(ii) INCOMPETENCY TEST.—The test for determining whether an alien is incompetent to participate in immigration proceedings, is not malingering, and consequently lacks sufficient capacity to proceed, is whether the alien, not solely on account of illiteracy or language barriers—

''(I) lacks a rational and factual understanding of the nature and object of the proceedings;

''(II) cannot consult with an available attorney or representative; and

''(III) does not have a reasonable opportunity to examine and present evidence and cross-examine witnesses.

''(iii) NO APPEAL.—A decision of an immigration judge under this subparagraph may not be appealed administratively and is not subject to judicial review.

''(C) EFFECT OF FINDING OF INCOMPETENCE.—A finding by an immigration judge that an alien is incompetent to represent himself or herself in removal proceedings shall not prejudice the outcome of any proceeding under this section or any finding by the immigration judge with respect to whether the alien is inadmissible under section 212 or removable under section 237.

''(3) QUARTERLY REPORT.—Not later than 90 days after the effective date of a final rule implementing this subsection, and quarterly thereafter, the Director of the Executive Office for Immigration Review shall submit to the appropriate committees of Congress a report that includes—

''(A)(i) the number of aliens in proceedings under this section who claimed during the reporting period to be incompetent to represent themselves, disaggregated by immigration court and immigration judge; and

''(ii) a description of each reason given for such claims, such as mental disease or mental defect; and

''(B)(i) the number of aliens in proceedings under this section found during the reporting period by an immigration judge to be incompetent to represent themselves, disaggregated by immigration court and immigration judge; and

''(ii) a description of each reason upon which such findings were based, such as mental disease or mental defect.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed—

''(A) to require the Secretary of Homeland Security or the Attorney General to analyze whether an alien is incompetent to represent themselves, absent an indicia of incompetency;

''(B) to establish a substantive due process right;

''(C) to automatically equate a diagnosis of a mental illness to a lack of competency;

''(D) to limit the ability of the Attorney General or the immigration judge to prescribe safeguards to protect the rights and privileges of the alien;

''(E) to limit any authorized representation program by a State, local, or Tribal government;

''(F) to provide any statutory right to representation in any proceeding authorized under this Act, unless such right is already authorized by law; or

''(G) to interfere with, create, or expand any right or responsibility established through a court order or settlement agreement in effect before the date of the enactment of the Border Act.

''(5) RULEMAKING.—The Attorney General is authorized to prescribe regulations to carry out this subsection.''.

SEC. 4514. CONFORMING AMENDMENT.

Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended to read as follows:

''SEC. 292. RIGHT TO COUNSEL.

''(a) IN GENERAL.—In any removal proceeding before an immigration judge and in any appeal proceeding before the Attorney General from an order issued through such removal proceeding, the person concerned shall have the privilege of being represented (at no expense to the Federal Government) by any counsel who is authorized to practice in such proceedings.

''(b) EXCEPTIONS FOR CERTAIN POPULATIONS.—The Federal Government is authorized to provide counsel, at its own expense, in proceedings described in subsection (a) for—

''(1) unaccompanied alien children described in paragraph (5)(B) of section 235(c) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)); and

''(2) subject to appropriations, certain incompetent aliens described in section 240(e).''.

TITLE VI—ACCOUNTABILITY AND METRICS

SEC. 4601. EMPLOYMENT AUTHORIZATION COMPLIANCE.

Not later than 1 year and 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the appropriate committees of Congress and to the public that describes the actions taken by Secretary pursuant to section 235C of the Immigration and Nationality Act, as added by section 4502, including—

(1) the number of employment authorization applications granted or denied pursuant to subsection (a)(1) of such section 235C, disaggregated by whether the alien concerned was processed under the procedures described in section 235(b)(1) or 235B of such Act;

(2) the ability of the Secretary to comply with the timelines for provision of work authorization prescribed in subparagraphs (A) through (C) of section 235C(a)(2) of such Act, including whether complying with subparagraphs (A) and (B) of such section 235C(a)(2) has caused delays in the processing of such aliens;

(3) the number of employment authorizations revoked due to an alien's failure to comply with the requirements under section 235B(f)(5)(B) of the Immigration and Nationality Act, as added by section 4141, or for any other reason, along with the articulated basis; and

(4) the average time for the revocation of an employment authorization if an alien is authorized to work under section 235C of the Immigration and Nationality Act and is subsequently ordered removed.

SEC. 4602. LEGAL ACCESS IN CUSTODIAL SETTINGS.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the appropriate committees of Congress and to the public regarding alien access to legal representation and consultation in custodial settings, including—

(1) the total number of aliens who secured or failed to secure legal representation pursuant to section 235(b)(1)(B)(iv)(V) of the Immigration and Nationality Act, as added by section 4511, before the protection determination under section 235(b)(1)(B)(i) of such Act, including the disposition of such alien's interview;

(2) the total number of aliens who waived the 72-hour period pursuant to section 235(b)(1)(B)(iv)(IV)(bb) of such Act, including the disposition of the alien's protection determination pursuant to section 235(b)(1)(B)(i) of such Act;

(3) the total number of aliens who required a verbal interpretation of the information about screenings and interviews pursuant to section 235(b)(1)(B)(iv) of such Act, disaggregated by the number of aliens who received or did not receive such an interpretation, respectively, pursuant to section 235(b)(1)(B)(iv)(III) of such Act, including the disposition of their respective protection determinations pursuant to section 235(b)(1)(B)(i) of such Act;

(4) the total number of aliens who received information, either verbally or in writing, in their native language; and

(5) whether such policies and procedures with respect to access provided in section 235(b)(1)(B)(iv) have been made available publicly.

SEC. 4603. CREDIBLE FEAR AND PROTECTION DETERMINATIONS.

Not later than 1 year and 60 days after the date of the enactment of this Act, and annually thereafter, the Director of U.S. Citizenship and Immigration Services shall submit a report to the appropriate committees of Congress and to the public that sets forth—

(1) the number of aliens who requested or received a protection determination pursuant to section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B));

(2) the number of aliens who requested or received a protection determination pursuant to section 235B(b) of such Act, as added by section 4141;

(3) the number of aliens described in paragraphs (1) and (2) who are subject to an asylum exception under section 235(b)(1)(B)(vi) of such Act, disaggregated by specific asylum exception;

(4) the number of aliens for whom an asylum officer determined that an alien may be eligible for a waiver under section 235(b)(1)(B)(vi) of such Act and did not apply such asylum exception to such alien;

(5) the number of aliens described in paragraph (1) or (2) who—

(A) received a positive screening or determination; or

(B) received a negative screening or determination;

(6) the number of aliens described in paragraph (5)(B) who requested reconsideration or appeal of a negative screening and the disposition of such requests;

(7) the number of aliens described in paragraph (6) who, upon reconsideration—

(A) received a positive screening or determination, as applicable; or

(B) received a negative screening or determination, as applicable;

(8) the number of aliens described in paragraph (5)(B) who appealed a decision subsequent to a request for reconsideration;

(9) the number of aliens described in paragraph (5)(B) who, upon appeal of a decision, disaggregated by whether or not such alien requested reconsideration of a negative screening—

(A) received a positive screening or determination, as applicable; or

(B) received negative screening or determination, as applicable; and

(10) the number of aliens who withdraw their application for admission, including—

(A) whether such alien could read or write;

(B) whether the withdrawal occurred in the alien's native language;

(C) the age of such alien; and

(D) the Federal agency or component that processed such withdrawal.

SEC. 4604. PUBLICATION OF OPERATIONAL STATISTICS BY U.S. CUSTOMS AND BORDER PROTECTION.

(a) IN GENERAL.—Beginning in the second calendar month beginning after the date of the enactment of this Act, the Commissioner for U.S. Customs and Border Protection shall publish, not later than the seventh day of each month, on a publicly available website of the Department, information from the previous month relating to—

(1) the number of alien encounters, disaggregated by—

(A) whether such aliens are admissible or inadmissible, including the basis for such determinations;

(B) the U.S. Border Patrol sector and U.S. Customs and Border Protection field office that recorded the encounter;

(C) any outcomes recorded in the terrorist screening database (as such term is defined in section 2101 of the Homeland Security Act of 2002 (6 U.S.C. 621)), including—

(i) whether the alien is found to be inadmissible or removable due to a specific ground relating to terrorism;

(ii) the alien's country of nationality, race or ethnic identification, and age; and

(iii) whether the alien's alleged terrorism is related to domestic or international actors, if available;

(D) aliens with active Federal or State warrants for arrest in the United States and the nature of the crimes justifying such warrants;

(E) the nationality of the alien;

(F) whether the alien encountered is a single adult, an individual in a family unit, an unaccompanied child, or an accompanied child;

(G) the average time the alien remained in custody, disaggregated by demographic information;

(H) the processing disposition of each alien described in this paragraph upon such alien's release from the custody of U.S. Customs and Border Protection, disaggregated by nationality;

(I) the number of aliens who are paroled pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), disaggregated by geographic region or sector;

(J) the recidivism rate of aliens described in this paragraph, including the definition of ''recidivism'' and notice of any changes to such definition; and

(K) aliens who have a confirmed gang affiliation, including—

(i) whether such alien was determined to be inadmissible or removable due to such affiliation;

(ii) the specific gang affiliation alleged;

(iii) the basis of such allegation; and

(iv) the Federal agency or component that made such allegation or determination;

(2) seizures, disaggregated by the U.S. Border Patrol sector and U.S. Customs and Border Protection field office that recorded the encounter, of—

(A) narcotics;

(B) firearms, whether inbound or outbound, including whether such firearms were manufactured in the United States, if known;

(C) monetary instruments, whether inbound and outbound; and

(D) other specifically identified contraband;

(3) with respect to border emergency authority described in section 244A of the Immigration and Nationality Act, as added by section 4301—

(A) the number of days such authority was in effect;

(B) the number of encounters (as defined in section 244A(i)(3)) of such Act, disaggregated by U.S. Border Patrol sector and U.S. Customs and Border Patrol field office;

(C) the number of summary removals made under such authority;

(D) the number of aliens who manifested a fear of persecution or torture and were screened for withholding of removal or for protection under the Convention Against Torture, and the disposition of each such screening, including the processing disposition or outcome;

(E) the number of aliens who were screened at a port of entry in a safe and orderly manner each day such authority was in effect, including the processing disposition or outcome;

(F) whether such authority was exercised under subparagraph (A), (B)(i), or (B)(ii) of section 244A(b)(3) of such Act;

(G) a public description of all the methods by which the Secretary determines if an alien may be screened in a safe and orderly manner;

(H) the total number of languages that are available for such safe and orderly process;

(I) the number of aliens who were returned to a country that is not their country of nationality;

(J) the number of aliens who were returned to any country without a humanitarian or protection determination during the use of such authority;

(K) the number of United States citizens who were inadvertently detained, removed, or affected by such border emergency authority;

(L) the number of individuals who have lawful permission to enter the United States and were inadvertently detained, removed, or affected by such border emergency authority;

(M) a summary of the impact to lawful trade and travel during the use of such border emergency authority, disaggregated by port of entry;

(N) the disaggregation of the information described in subparagraphs (C), (D), (E), (I), (J), (K), and (L) by the time the alien remained in custody and by citizenship and family status, including—

(i) single adults;

(ii) aliens traveling in a family unit;

(iii) unaccompanied children;

(iv) accompanied children;

(4) information pertaining to agricultural inspections;

(5) border rescues and mortality data;

(6) information regarding trade and travel; and

(7) with respect to aliens who were transferred from the physical custody of a State or Federal law enforcement agency or other State agency to the physical custody of a Federal agency or component—

(A) the specific States concerned;

(B) whether such alien had initially been charged with a State crime before the State transferred such alien to such Federal agency or component; and

(C) the underlying State crime with which the alien was charged.

(b) TOTALS.—The information described in subsection (a) shall include the total amount

of each element described in each such paragraph in the relevant unit of measurement for reporting month.

(c) DEFINITIONS.—The monthly publication required under subsection (a) shall—

(1) include the definition of all terms used by the Commissioner; and

(2) specifically note whether the definition of any term has been changed.

(d) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In preparing each publication pursuant to subsection (a), the Secretary shall—

(1) protect any personally identifiable information associated with aliens described in subsection (a); and

(2) comply with all applicable privacy laws.

SEC. 4605. UTILIZATION OF PAROLE AUTHORITIES.

Section 602(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1182 note) is amended to read as follows:

''(b) ANNUAL REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit a report to the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the public that identifies the number of aliens paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)).

''(2) CONTENTS.—Each report required under paragraph (1) shall include—

''(A) the total number of aliens—

''(i) who submitted applications for parole;

''(ii) whose parole applications were approved; or

''(iii) who were granted parole into the United States during the fiscal year immediately preceding the fiscal year during which such report is submitted;

''(B) the elements described in subparagraph (A), disaggregated by—

''(i) citizenship or nationality;

''(ii) demographic categories;

''(iii) the component or subcomponent of the Department of Homeland Security that granted such parole;

''(iv) the parole rationale or class of admission, if applicable; and

''(v) the sector, field office, area of responsibility, or port of entry where such parole was requested, approved, or granted;

''(C) the number of aliens who requested re-parole, disaggregated by the elements described in subparagraph (B), and the number of denials of re-parole requests;

''(D) the number of aliens whose parole was terminated for failing to abide by the terms of parole, disaggregated by the elements described in subparagraph (B);

''(E) for any parole rationale or class of admission which requires sponsorship, the number of sponsor petitions which were—

''(i) confirmed;

''(ii) confirmed subsequent to a nonconfirmation; or

''(iii) denied;

''(F) for any parole rationale or class of admission in which a foreign government has agreed to accept returns of third country nationals, the number of returns of such third country nationals such foreign government has accepted;

''(G) the number of aliens who filed for asylum after being paroled into the United States; and

''(H) the number of aliens described in subparagraph (G) who were granted employment authorization based solely on a grant of parole.

''(3) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In preparing each report pursuant to paragraph (1), the Secretary shall—

''(A) protect any personally identifiable information associated with aliens described in paragraph (1); and

''(B) comply with all applicable privacy laws.''.

SEC. 4606. ACCOUNTABILITY IN PROVISIONAL REMOVAL PROCEEDINGS.

(a) IN GENERAL.—Not later than 1 year and 30 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate committees of Congress and the public regarding the implementation of sections 235B and 240D of the Immigration and Nationality Act, as added by sections 3141 and 3142 during the previous 12-month period.

(b) CONTENTS.—Each report required under subsection (a) shall include—

(1) the number of aliens processed pursuant to section 235B(b) of the Immigration and Nationality Act, disaggregated by—

(A) whether the alien was a single adult or a member of a family unit;

(B) the number of aliens who—

(i) were provided proper service and notice upon release from custody pursuant to section 235B(b)(2) of such Act; or

(ii) were not given such proper service and notice;

(C) the number of aliens who received a protection determination interview pursuant to section 235B(c) of such Act within the 90-day period required under section 235B(b)(3)(A) of such Act;

(D) the number of aliens described in subparagraph (C)—

(i) who retained legal counsel;

(ii) who received a positive protection determination;

(iii) who received a negative protection determination;

(iv) for those aliens described in clause (iii), the number who—

(I) requested reconsideration;

(II) whether such reconsideration resulted in approval or denial;

(III) whether an alien upon receiving a negative motion for reconsideration filed an appeal;

(IV) who appealed a negative decision without filing for reconsideration;

(V) whether the appeal resulted in approval or denial, disaggregated by the elements in subclauses (III) and (IV); and

(VI) whether the alien, upon receiving a negative decision as described in subclauses (III) and (V), was removed from the United States upon receiving such negative decision;

(v) who absconded during such proceedings; and

(vi) who failed to receive proper service;

(E) the number of aliens who were processed pursuant to section 235B(f) of such Act; and

(F) the number of aliens described in subparagraph (E) who submitted their application pursuant to section 235B(f)(2)(B)(i) of such Act;

(2) the average time taken by the Department of Homeland Security—

(A) to perform a protection determination interview pursuant to section 235B(b) of such Act;

(B) to serve notice of a protection determination pursuant to section 235B(e) of such Act after a determination has been made pursuant to section 235B(b) of such Act;

(C) to provide an alien with a work authorization pursuant to section 235C of such Act, as added by section 4501, disaggregated by the requirements under subparagraphs (A), (B), and (C) of section 235C(a)(2) of such Act; and

(D) the utilization of the Alternatives to Detention program authorized under section 235B(a)(3) of such Act, disaggregated by—

(i) types of alternatives to detention used to supervise the aliens after being released from physical custody;

(ii) the level of compliance by the alien with the rules of the Alternatives to Detention program; and

(iii) the total cost of each Alternatives to Detention type;

(3) the number of aliens processed pursuant to section 240D(d) of such Act, disaggregated by—

(A) whether the alien was a single adult or a member of a family unit;

(B) the number of aliens who were provided proper service and notice of a protection determination pursuant to section 235B(e) of such Act;

(C) the number of aliens who received a protection merits interview pursuant to section 240D(c)(3) of such Act within the 90-day period required under section 240D(b) of such Act;

(D) the number of aliens who received a positive protection merits determination pursuant to section 240D(d)(2) of such Act;

(E) the number of aliens who received a negative protection merits determination pursuant to section 240D(d)(3) of such Act, disaggregated by the number of aliens who appealed the determination pursuant to section 240D(e) of such Act and who received a result pursuant to section 240D(e)(7) of such Act;

(F) the number of aliens who were processed pursuant to section 240D of such Act who retained legal counsel;

(G) the number of aliens who appeared at such proceedings; and

(H) the number of aliens who absconded during such proceedings; and

(4) the average time taken by the Department of Homeland Security—

(A) to perform a protection merits interview pursuant to section 240D(d) of such Act;

(B) to serve notice of a protection merits determination pursuant to section 240D(d) of such Act; and

(C) the utilization of Alternatives to Detention program authorized under section 240D(c)(2) of such Act, disaggregated by—

(i) types of alternatives to detention used to supervise the aliens after being released from physical custody; and

(ii) the level of compliance by the aliens with rules of the Alternatives to Detention program.

(c) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In preparing each report pursuant to subsection (a), the Secretary shall—

(1) protect any personally identifiable information associated with aliens described in subsection (a); and

(2) comply with all applicable privacy laws.

SEC. 4607. ACCOUNTABILITY IN VOLUNTARY REPATRIATION, WITHDRAWAL, AND DEPARTURE.

(a) IN GENERAL.—Not later than 1 year and 30 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate committees of Congress regarding the implementation of section 240G of the Immigration and Nationality Act, as added by section 4144.

(b) CONTENTS.—The report required under subsection (a) shall include the number of aliens who utilized the provisions of such section 240G, disaggregated by—

(1) demographic information;

(2) the period in which the election took place;

(3) the total costs of repatriation flight when compared to the cost to charter a private, commercial flight for such return;

(4) alien use of reintegration or reception programs in the alien's country of nationality after removal from the United States;

(5) the number of aliens who failed to depart in compliance with section 240G(i)(2) of such Act;

(6) the number of aliens to which a civil penalty and a period of ineligibility was applied; and

(7) the number of aliens who did depart.

SEC. 4608. GAO ANALYSIS OF IMMIGRATION JUDGE AND ASYLUM OFFICER DECISION-MAKING REGARDING ASYLUM, WITHHOLDING OF REMOVAL, AND PROTECTION UNDER THE CONVENTION AGAINST TORTURE.

(a) IN GENERAL.—Not later than 2 years after the Comptroller General of the United States submits the certification described in section 4146(d)(3), the Comptroller General shall analyze the decision rates of immigration judges and asylum officers regarding aliens who have received a positive protection determination and have been referred to proceedings under section 240 or 240D of the Immigration and Nationality Act, as applicable, to determine—

(1) whether the Executive Office for Immigration Review and U.S. Citizenship and Immigration Services have any differential in rate of decisions for cases involving asylum, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984; and

(2) the causes for any such differential, including any policies, procedures, or other administrative measures.

(b) RECOMMENDATIONS.—Upon completing the analysis required under subsection (a), the Comptroller General shall submit recommendations to the Director of the Executive Office for Immigration Review and the Director of U.S. Citizenship and Immigration Services regarding any administrative or procedural changes necessary to ensure uniformity in decision-making between those agencies, which may not include quotas.

SEC. 4609. REPORT ON COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN.

(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Health and Human Services shall submit a report to the appropriate committees of Congress with respect to unaccompanied alien children who received appointed counsel pursuant to section 235(c)(5)(B) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, as added by section 4512, including—

(1) the number of unaccompanied alien children who obtained such counsel compared to the number of such children who did not obtain such counsel;

(2) the sponsorship category of unaccompanied alien children who obtained counsel;

(3) the age ranges of unaccompanied alien children who obtained counsel;

(4) the administrative appeals, if any, of unaccompanied alien children who obtained counsel; and

(5) the case outcomes of unaccompanied alien children who obtained counsel.

(b) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In preparing each report pursuant to subsection (a), the Secretary of Health and Human Services shall—

(1) protect any personally identifiable information associated with aliens described in subsection (a); and

(2) comply with all applicable privacy laws.

SEC. 4610. RECALCITRANT COUNTRIES.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended—

(1) by striking ''On being notified'' and inserting the following:

''(1) IN GENERAL.—On being notified''; and

(2) by adding at the end the following:

''(2) REPORT ON RECALCITRANT COUNTRIES.—

''(A) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, the Secretary of Homeland Security and the Secretary of State shall jointly—

''(i) prepare an unclassified annual report, which may include a classified annex, that includes the information described in subparagraph (C); and

''(ii) submit such report to Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on the Judiciary of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives.

''(B) BRIEFING.—Not later than 30 days after the date on which a report is submitted pursuant to subparagraph (A), designees of the Secretary of Homeland Security and of the Secretary of State shall brief the committees referred to in subparagraph (A)(ii) regarding any measures taken to encourage countries to accept the return of their citizens, subjects, or nationals, or aliens whose last habitual residence was within each such country, who have been ordered removed from the United States.

''(C) CONTENTS.—Each report prepared pursuant to subparagraph (A)(i) shall include—

''(i) a list of all countries that—

''(I) deny the acceptance of their citizens, subjects, or nationals, or aliens whose last habitual residence was within such country, who have been ordered removed to such country from the United States; or

''(II) unreasonably delay the acceptance of their citizens, subjects, or nationals, or aliens whose last habitual residence was within such country, who have been ordered removed to such country from the United States;

''(ii) for each country described in clause (i)(II), the average length of delay of such citizens, subjects, nationals, or aliens acceptance into such country;

''(iii) a list of the foreign countries that have placed unreasonable limitations upon the acceptance of their citizens, subjects, or nationals, or aliens whose last habitual residence was within such country, who have been ordered removed to such country from the United States;

''(iv) a description of the criteria used to determine that a country described under clause (iii) has placed such unreasonable limitations;

''(v) the number of aliens ordered removed from the United States to a country described in clause (i) or (iii) whose removal from the United States was pending as of the last day of the previous fiscal year, including—

''(I) the number of aliens who—

''(aa) received a denial of a work authorization; and

''(bb) are not eligible to request work authorization;

''(vi) the number of aliens ordered removed from the United States to a country described in clause (i) or (iii) whose removal from the United States was pending as of the last day of the previous fiscal year and who are being detained, disaggregated by—

''(I) the length of such detention;

''(II) the aliens who requested a review of the significant likelihood of their removal in the reasonably foreseeable future;

''(III) the aliens for whom the request for release under such review was denied;

''(IV) the aliens who remain detained on account of special circumstances despite no significant likelihood that such aliens will be removed in the foreseeable future, disaggregated by the specific circumstance;

''(V) the aliens described in subclause (IV) who are being detained based on a determination that they are specially dangerous;

''(VI) the aliens described in subclause (V) whose request to review the basis for their continued detention was denied;

''(VII) demographic categories, including part of a family unit, single adults, and unaccompanied alien children;

''(vii) the number of aliens referred to in clauses (i) through (iii) who—

''(I) have criminal convictions, disaggregated by National Crime Information Center code, whether misdemeanors or felonies;

''(II) are considered national security threats to the United States;

''(III) are members of a criminal gang or another organized criminal organization, if found to be inadmissible or removable on such grounds; or

''(IV) have been released from U.S. Immigration and Customs Enforcement custody on an order of supervision and the type of supervision and compliance with such supervision, if applicable;

''(viii) a description of the actions taken by the Department of Homeland Security and the Department of State to encourage foreign nations to accept the return of their nationals; and

''(ix) the total number of individuals that such jurisdiction has accepted who are not citizens, subjects, or nationals, or aliens who last habitually resided within such jurisdiction and have been removed from the United States, if any.''.

TITLE VII—OTHER MATTERS

SEC. 4701. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of any such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of such provisions or amendments to any other person or circumstance shall not be affected.

SA 1864. Mr. HAGERTY submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds made available by this Act may be used to provide grants or other funding to any government entity or organization, including nonprofit entities, that has not certified that it does not facilitate voting by noncitizens in Federal, State, or local government elections.

SA 1865. Mr. HAGERTY submitted an amendment intended to be proposed by him to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following: