

AC-64

M. M. F. A.
August King-

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

AMENDMENT N^o 2010

By

Rounds - King

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idized COBRA

To:

HR 2579

64

_____ and

Page(s)

printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. ROUNDS (for himself, Mr. KING, Ms. COLLINS, Mr. MANCHIN, Mr. GRAHAM, Mr. KAINE, Mr. FLAKE, Mr. COONS, Mr. GARDNER, Ms. HEITKAMP, Ms. MURKOWSKI, Mrs. SHAHEEN, Mr. ALEXANDER, Ms. KLOBUCHAR, Mr. ISAKSON, and Mr. WARNER)

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the "Immigration Security
- 5 and Opportunity Act".

1 **SEC. 2. CANCELLATION OF REMOVAL AND ADJUSTMENT OF**
2 **STATUS FOR CERTAIN LONG-TERM RESI-**
3 **DENTS WHO ENTERED THE UNITED STATES**
4 **AS CHILDREN.**

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

8 **“SEC. 244A. CANCELLATION OF REMOVAL FOR CERTAIN**
9 **LONG-TERM RESIDENTS WHO ENTERED THE**
10 **UNITED STATES AS CHILDREN.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) APPLICABLE FEDERAL TAX LIABILITY.—
13 The term ‘applicable Federal tax liability’ means li-
14 ability for Federal taxes imposed under the Internal
15 Revenue Code of 1986, including any penalties and
16 interest on Federal taxes imposed under that Code.

17 “(2) ARMED FORCES.—The term ‘Armed
18 Forces’ has the meaning given the term ‘armed
19 forces’ in section 101 of title 10, United States
20 Code.

21 “(3) DACA.—The term ‘DACA’ means the de-
22 ferred action for childhood arrivals policy described
23 in the memorandum issued by the Secretary dated
24 June 15, 2012 (rescinded on September 5, 2017).

1 “(4) DACA RECIPIENT.—The term ‘DACA re-
2 cipient’ means an alien who was granted and re-
3 mained in deferred action status under DACA.

4 “(5) DISABILITY.—The term ‘disability’ has the
5 meaning given the term in section 3(1) of the Amer-
6 icans with Disabilities Act of 1990 (42 U.S.C.
7 12102(1)).

8 “(6) EARLY CHILDHOOD EDUCATION PRO-
9 GRAM.—The term ‘early childhood education pro-
10 gram’ has the meaning given the term in section 103
11 of the Higher Education Act of 1965 (20 U.S.C.
12 1003).

13 “(7) ELEMENTARY SCHOOL.—The term ‘ele-
14 mentary school’ has the meaning given the term in
15 section 8101 of the Elementary and Secondary Edu-
16 cation Act of 1965 (20 U.S.C. 7801).

17 “(8) FELONY.—

18 “(A) IN GENERAL.—The term ‘felony’
19 means a Federal, State, or local criminal of-
20 fense punishable by imprisonment for a term
21 that exceeds 1 year.

22 “(B) EXCLUSION.—The term ‘felony’ does
23 not include a State or local criminal offense for
24 which an essential element is the immigration
25 status of an alien.

1 “(9) HIGH SCHOOL.—The term ‘high school’
2 has the meaning given the term in section 8101 of
3 the Elementary and Secondary Education Act of
4 1965 (20 U.S.C. 7801).

5 “(10) INSTITUTION OF HIGHER EDUCATION.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the term ‘institution of high-
8 er education’ has the meaning given the term in
9 section 102 of the Higher Education Act of
10 1965 (20 U.S.C. 1002).

11 “(B) EXCLUSION.—The term ‘institution
12 of higher education’ does not include an institu-
13 tion of higher education outside the United
14 States.

15 “(11) MISDEMEANOR.—

16 “(A) IN GENERAL.—The term ‘mis-
17 demeanor’ means a Federal, State, or local
18 criminal offense for which—

19 “(i) the maximum term of imprison-
20 ment is—

21 “(I) greater than 5 days; and

22 “(II) not greater than 1 year;

23 and

24 “(ii) the individual was sentenced to
25 time in custody of 90 days or less.

1 “(B) EXCLUSION.—The term ‘mis-
2 demeanor’ does not include a State or local of-
3 fense for which an essential element is—

4 “(i) the immigration status of the
5 alien;

6 “(ii) a significant misdemeanor; or

7 “(iii) a minor traffic offense.

8 “(12) PERMANENT RESIDENT STATUS ON A
9 CONDITIONAL BASIS.—The term ‘permanent resident
10 status on a conditional basis’ means status as an
11 alien lawfully admitted for permanent residence on
12 a conditional basis under this section.

13 “(13) POVERTY LINE.—The term ‘poverty line’
14 has the meaning given the term in section 673 of the
15 Community Services Block Grant Act (42 U.S.C.
16 9902).

17 “(14) SECONDARY SCHOOL.—The term ‘sec-
18 ondary school’ has the meaning given the term in
19 section 8101 of the Elementary and Secondary Edu-
20 cation Act of 1965 (20 U.S.C. 7801).

21 “(15) SECRETARY.—The term ‘Secretary’
22 means the Secretary of Homeland Security.

23 “(16) SIGNIFICANT MISDEMEANOR.—

1 “(A) IN GENERAL.—The term ‘significant
2 misdemeanor’ means a Federal, State, or local
3 criminal offense—

4 “(i) for which the maximum term of
5 imprisonment is—

6 “(I) more than 5 days; and

7 “(II) not more than 1 year; and

8 “(ii)(I) that, regardless of the sen-
9 tence imposed, is—

10 “(aa) a crime of domestic vio-
11 lence (as defined in section
12 237(a)(2)(E)(i)); or

13 “(bb) an offense of—

14 “(AA) sexual abuse or ex-
15 ploitation;

16 “(BB) burglary;

17 “(CC) unlawful possession
18 or use of a firearm;

19 “(DD) drug distribution or
20 trafficking; or

21 “(EE) driving under the in-
22 fluence, if the applicable State
23 law requires, as elements of the
24 offense, the operation of a motor
25 vehicle and a finding of impair-

1 ment or a blood alcohol content
2 equal to or greater than .08; or

3 “(II) that resulted in a sentence of
4 time in custody of more than 90 days.

5 “(B) EXCLUSION.—The term ‘significant
6 misdemeanor’ does not include a State or local
7 offense for which an essential element is the im-
8 migration status of an alien.

9 “(17) UNIFORMED SERVICES.—The term ‘Uni-
10 formed Services’ has the meaning given the term
11 ‘uniformed services’ in section 101(a) of title 10,
12 United States Code.

13 “(b) IN GENERAL.—Notwithstanding any other pro-
14 vision of law, the Secretary shall cancel the removal of,
15 and adjust to the status of an alien lawfully admitted for
16 permanent residence on a conditional basis, an alien who
17 is inadmissible to, or deportable from, the United States
18 if—

19 “(1) the alien is a DACA recipient; or

20 “(2)(A) the alien has been continuously phys-
21 ically present in the United States since June 15,
22 2012;

23 “(B) the alien was younger than 18 years of
24 age on the date on which the alien initially entered
25 the United States;

1 “(C) subject to subsections (c) and (d), the
2 alien—

3 “(i) is not inadmissible under paragraph
4 (2), (3), (6)(E), (6)(G), (8), (10)(A), (10)(C),
5 or (10)(D) of section 212(a);

6 “(ii) has not ordered, incited, assisted, or
7 otherwise participated in the persecution of any
8 person on account of race, religion, nationality,
9 membership in a particular social group, or po-
10 litical opinion; and

11 “(iii) has not been convicted of—

12 “(I) a felony;

13 “(II) a significant misdemeanor; or

14 “(III) 3 or more misdemeanors—

15 “(aa) not occurring on the same
16 date; and

17 “(bb) not arising out of the same
18 act, omission, or scheme of mis-
19 conduct;

20 “(D) the alien—

21 “(i) has been admitted to an institution of
22 higher education;

23 “(ii)(I) has earned a high school diploma
24 or a commensurate alternative award from a
25 public or private high school; or

1 “(II) has obtained—

2 “(aa) a general education development
3 certificate recognized under State law; or

4 “(bb) a high school equivalency di-
5 ploma in the United States;

6 “(iii) is enrolled in—

7 “(I) secondary school; or

8 “(II) an education program assisting
9 student in—

10 “(aa) obtaining—

11 “(AA) a regular high school
12 diploma; or

13 “(BB) the recognized equiv-
14 alent of a regular high school di-
15 ploma; or

16 “(bb) passing—

17 “(AA) a general educational
18 development exam;

19 “(BB) a high school equiva-
20 lence diploma examination; or

21 “(CC) any other similar
22 State-authorized exam; or

23 “(iv)(I) has served, is serving, or has en-
24 listed in the Armed Forces; or

1 “(II) in the case of an alien who has been
2 discharged from the Armed Forces, has received
3 an honorable discharge;

4 “(E)(i) the alien has paid any applicable Fed-
5 eral tax liability incurred by the alien during the en-
6 tire period for which the alien was authorized to
7 work in the United States; or

8 “(ii) the alien has entered into an agreement to
9 pay, through a payment installment plan approved
10 by the Commissioner of Internal Revenue, any appli-
11 cable Federal tax liability incurred by the alien dur-
12 ing the entire period for which the alien was author-
13 ized to work in the United States; and

14 “(F) the alien was under the age of 38 years
15 on June 15, 2012.

16 “(c) WAIVER.—

17 “(1) IN GENERAL.—With respect to any benefit
18 under this section, the Secretary may, on a case-by-
19 case basis, waive a ground of inadmissibility under
20 paragraph (2), (6)(E), (6)(G), or (10)(D) of section
21 212(a)—

22 “(A) for humanitarian purposes; or

23 “(B) if the waiver is otherwise in the pub-
24 lic interest.

1 “(2) QUARTERLY REPORT.—Not later than 180
2 days after the date of enactment of this section, and
3 quarterly thereafter, the Secretary shall submit to
4 Congress a report that identifies, for the preceding
5 quarter—

6 “(A) the number of waivers requested by
7 aliens under paragraph (1);

8 “(B) the number of waiver requests grant-
9 ed by the Secretary under that paragraph; and

10 “(C) the number of waiver requests denied
11 by the Secretary under that paragraph.

12 “(d) TREATMENT OF EXPUNGED CONVICTIONS.—

13 “(1) IN GENERAL.—An expunged conviction
14 shall not automatically be treated as a conviction re-
15 ferred to in subsection (b)(2)(C)(iii), (o)(3)(A)(iii),
16 or (p)(1)(A)(i)(III).

17 “(2) CASE-BY-CASE EVALUATION.—The Sec-
18 retary shall evaluate an expunged conviction on a
19 case-by-case basis according to the nature and sever-
20 ity of the offense underlying the expunged convic-
21 tion, based on the record of conviction, to determine
22 whether, under the particular circumstances, the
23 alien is eligible for cancellation of removal, adjust-
24 ment to permanent resident status on a conditional
25 basis, or other adjustment of status.

1 “(e) DACA RECIPIENTS.—With respect to a DACA
2 recipient, the Secretary shall cancel the removal of the
3 DACA recipient and adjust the status of the DACA recipi-
4 ent to the status of an alien lawfully admitted for perma-
5 nent residence on a conditional basis unless, since the date
6 on which the DACA recipient was granted deferred action
7 status under DACA, the DACA recipient has engaged in
8 conduct that would render an alien ineligible for deferred
9 action status under DACA.

10 “(f) APPLICATION FEE.—

11 “(1) IN GENERAL.—The Secretary may require
12 an alien applying for permanent resident status on
13 a conditional basis to pay a reasonable fee that is
14 commensurate with the cost of processing the appli-
15 cation.

16 “(2) EXEMPTION.—An applicant may be ex-
17 empted from paying the fee required under para-
18 graph (1) only if the alien—

19 “(A)(i) is younger than 18 years of age;

20 “(ii) received total income, during the 1-
21 year period immediately preceding the date on
22 which the alien files an application under this
23 section, that is less than 150 percent of the
24 poverty line; and

1 “(iii) is in foster care or otherwise lacking
2 any parental or other familial support;

3 “(B) is younger than 18 years of age and
4 is homeless;

5 “(C)(i) cannot care for himself or herself
6 because of a serious, chronic disability; and

7 “(ii) received total income, during the 1-
8 year period immediately preceding the date on
9 which the alien files an application under this
10 section, that is less than 150 percent of the
11 poverty line; or

12 “(D)(i) during the 1-year period imme-
13 diately preceding the date on which the alien
14 files an application under this section, accumu-
15 lated \$10,000 or more in debt as a result of un-
16 reimbursed medical expenses incurred by the
17 alien or an immediate family member of the
18 alien; and

19 “(ii) received total income, during the 1-
20 year period immediately preceding the date on
21 which the alien files an application under this
22 section, that is less than 150 percent of the
23 poverty line.

24 “(g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
25 DATA.—

1 “(1) IN GENERAL.—The Secretary may not
2 grant an alien permanent resident status on a condi-
3 tional basis under this section unless the alien sub-
4 mits biometric and biographic data, in accordance
5 with procedures established by the Secretary.

6 “(2) ALTERNATIVE PROCEDURE.—The Sec-
7 retary shall provide an alternative procedure for any
8 alien who is unable to provide the biometric or bio-
9 graphic data referred to in paragraph (1) due to of
10 a physical impairment.

11 “(h) BACKGROUND CHECKS.—

12 “(1) REQUIREMENT FOR BACKGROUND
13 CHECKS.—The Secretary shall use biometric, bio-
14 graphic, and other data that the Secretary deter-
15 mines appropriate—

16 “(A) to conduct security and law enforce-
17 ment background checks of an alien seeking
18 permanent resident status on a conditional
19 basis; and

20 “(B) to determine whether there is any
21 criminal, national security, or other factor that
22 would render the alien ineligible for permanent
23 resident status on a conditional basis.

24 “(2) COMPLETION OF BACKGROUND CHECKS.—
25 The security and law enforcement background

1 checks of an alien required under paragraph (1)
2 shall be completed, to the satisfaction of the Sec-
3 retary, before the date on which the Secretary
4 grants the alien permanent resident status on a con-
5 ditional basis.

6 “(3) CRIMINAL RECORD REQUESTS.—With re-
7 spect to an alien seeking permanent resident status
8 on a conditional basis, the Secretary, in cooperation
9 with the Secretary of State, shall seek to obtain
10 from INTERPOL, EUROPOL, or any other inter-
11 national or national law enforcement agency of the
12 country of nationality, country of citizenship, or
13 country of last habitual residence of the alien infor-
14 mation about any criminal activity—

15 “(A) in which the alien engaged in the
16 country of nationality, country of citizenship, or
17 country of last habitual residence of the alien;
18 or

19 “(B) for which the alien was convicted in
20 the country of nationality, country of citizen-
21 ship, or country of last habitual residence of the
22 alien.

23 “(i) MEDICAL EXAMINATION.—

1 “(1) REQUIREMENT.—An alien applying for
2 permanent resident status on a conditional basis
3 shall undergo a medical examination.

4 “(2) POLICIES AND PROCEDURES.—The Sec-
5 retary, with the concurrence of the Secretary of
6 Health and Human Services, shall prescribe policies
7 and procedures for the nature and timing of the ex-
8 amination required under paragraph (1).

9 “(j) MILITARY SELECTIVE SERVICE.—An alien ap-
10 plying for permanent resident status on a conditional basis
11 under this section shall establish that the alien has reg-
12 istered under the Military Selective Service Act (50 U.S.C.
13 3801 et seq.), if the alien is subject to registration under
14 that Act.

15 “(k) DETERMINATION OF CONTINUOUS PRES-
16 ENCE.—

17 “(1) TERMINATION OF CONTINUOUS PERIOD.—
18 Any period of continuous physical presence in the
19 United States of an alien who applies for permanent
20 resident status on a conditional basis under this sec-
21 tion shall not terminate on the date on which the
22 alien is served a notice to appear under section
23 239(a).

24 “(2) TREATMENT OF CERTAIN BREAKS IN
25 PRESENCE.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraphs (B) and (C), an alien shall be
3 considered to have failed to maintain contin-
4 uous physical presence in the United States if
5 the alien has departed from the United States
6 for any period greater than 90 days or for any
7 periods, in the aggregate, greater than 180
8 days.

9 “(B) EXTENSIONS FOR EXTENUATING CIR-
10 CUMSTANCES.—The Secretary may extend the
11 time periods described in subparagraph (A) for
12 an alien who demonstrates that the failure to
13 timely return to the United States was due to
14 extenuating circumstances beyond the control of
15 the alien, including the serious illness of the
16 alien, or death or serious illness of a parent,
17 grandparent, sibling, or child of the alien.

18 “(C) TRAVEL AUTHORIZED BY THE SEC-
19 RETARY.—Any period of travel outside of the
20 United States by an alien that was authorized
21 by the Secretary may not be counted toward
22 any period of departure from the United States
23 under subparagraph (A).

24 “(1) LIMITATION ON REMOVAL OF CERTAIN
25 ALIENS.—

1 “(1) IN GENERAL.—The Secretary or the Attor-
2 ney General may not remove an alien who appears
3 prima facie eligible for relief under this section.

4 “(2) ALIENS SUBJECT TO REMOVAL.—With re-
5 spect to an alien who is in removal proceedings, the
6 subject of a final removal order, or the subject of a
7 voluntary departure order, the Attorney General
8 shall provide the alien with a reasonable opportunity
9 to apply for relief under this section.

10 “(m) CERTAIN ALIENS ENROLLED IN ELEMENTARY
11 OR SECONDARY SCHOOL.—

12 “(1) STAY OF REMOVAL.—The Attorney Gen-
13 eral shall stay the removal proceedings of an alien
14 who—

15 “(A) meets all the requirements described
16 in subparagraphs (A) through (C) of subsection
17 (b)(2), subject to subsections (c) and (d);

18 “(B) is at least 5 years of age; and

19 “(C) is enrolled in an elementary school, a
20 secondary school, or an early childhood edu-
21 cation program.

22 “(2) COMMENCEMENT OF REMOVAL PRO-
23 CEEDINGS.—The Secretary may not commence re-
24 moval proceedings for an alien described in para-
25 graph (1).

1 “(3) EMPLOYMENT.—An alien whose removal is
2 stayed pursuant to paragraph (1) or who may not
3 be placed in removal proceedings pursuant to para-
4 graph (2) shall, on application to the Secretary, be
5 granted an employment authorization document.

6 “(4) LIFT OF STAY.—The Secretary or Attor-
7 ney General may not lift the stay granted to an alien
8 under paragraph (1) unless the alien ceases to meet
9 the requirements under that paragraph.

10 “(n) EXEMPTION FROM NUMERICAL LIMITATIONS.—
11 Nothing in this section or in any other law applies a nu-
12 merical limitation on the number of aliens who may be
13 granted permanent resident status on a conditional basis.

14 “(o) TERMS OF PERMANENT RESIDENT STATUS ON
15 A CONDITIONAL BASIS.—

16 “(1) PERIOD OF STATUS.—

17 “(A) IN GENERAL.—Permanent resident
18 status on a conditional basis is—

19 “(i) subject to subparagraph (B),
20 valid for a period of 7 years; and

21 “(ii) subject to termination under
22 paragraph (3).

23 “(B) EXTENSION AUTHORIZED.—The Sec-
24 retary may extend the period described in sub-
25 paragraph (A)(i).

“(2) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this section and the requirements to have the conditional basis of that status removed.

7 “(3) TERMINATION OF STATUS.—The Secretary
8 may terminate the permanent resident status on a
9 conditional basis of an alien only if the Secretary—

10 “(A) subject to subsections (c) and (d), de-
11 termines that the alien—

12 “(i) is inadmissible under paragraph
13 (2), (3), (6)(E), (6)(G), (8), (10)(A),
14 (10)(C), or (10)(D) of section 212(a);

15 “(ii) has ordered, incited, assisted, or
16 otherwise participated in the persecution of
17 any person on account of race, religion, na-
18 tionality, membership in a particular social
19 group, or political opinion; or

20 “(iii) has been convicted of—

21 “(I) a felony;

22 “(II) a significant misdemeanor;

23 or

24 “(III) 3 or more misdemeanors—

1 “(aa) not occurring on the
2 same date; and

3 “(bb) not arising out of the
4 same act, omission, or scheme of
5 misconduct; and

6 “(B) prior to the termination, provides the
7 alien—

8 “(i) notice of the proposed termi-
9 nation; and

10 “(ii) the opportunity for a hearing to
11 provide evidence that the alien meets the
12 requirements or otherwise contest the ter-
13 mination.

14 “(4) RETURN TO PREVIOUS IMMIGRATION STA-
15 TUS.—The immigration status of an alien whose
16 permanent resident status on a conditional basis ex-
17 pires under paragraph (1)(A)(i) or is terminated
18 under paragraph (3) or whose application for perma-
19 nent resident status on a conditional basis is denied
20 shall return to the immigration status of the alien
21 on the day before the date on which the alien re-
22 ceived permanent resident status on a conditional
23 basis or applied for permanent resident status on a
24 conditional basis, as appropriate.

1 “(p) REMOVAL OF CONDITIONAL BASIS OF PERMA-
2 NENT RESIDENT STATUS.—

3 “(1) ELIGIBILITY FOR REMOVAL OF CONDI-
4 TIONAL BASIS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the Secretary shall remove the con-
7 ditional basis of the permanent resident status
8 of an alien granted under this section and grant
9 the alien status as an alien lawfully admitted
10 for permanent residence if the alien—

11 “(i) subject to subsections (c) and
12 (d)—

13 “(I) is not inadmissible under
14 paragraph (2), (3), (6)(E), (6)(G),
15 (8), (10)(A), (10)(C), or (10)(D) of
16 section 212(a);

17 “(II) has not ordered, incited, as-
18 sisted, or otherwise participated in the
19 persecution of any person on account
20 of race, religion, nationality, member-
21 ship in a particular social group, or
22 political opinion; and

23 “(III) has not been convicted
24 of—

25 “(aa) a felony;

1 “(bb) a significant mis-
2 demeanor; or

3 “(cc) 3 or more mis-
4 demeanors—

5 “(AA) not occurring on
6 the same date; and

7 “(BB) not arising out
8 of the same act, omission, or
9 scheme of misconduct;

10 “(ii) has not abandoned the residence
11 of the alien in the United States;

12 “(iii)(I) has acquired a degree from
13 an institution of higher education or has
14 completed at least 2 years, in good stand-
15 ing, in a program for a bachelor’s degree
16 or higher degree in the United States;

17 “(II)(aa) has served in the Uniformed
18 Services for at least 2 years; or

19 “(bb) in the case of an alien who has
20 been discharged from the Uniformed Serv-
21 ices, has received an honorable discharge;
22 or

23 “(III) has been employed for periods
24 totaling at least 3 years and at least 75
25 percent of the time that the alien has had

1 a valid employment authorization, except
2 that any period during which the alien is
3 not employed while having a valid employ-
4 ment authorization and is enrolled in an
5 institution of higher education, a secondary
6 school, or an education program described
7 in subsection (b)(2)(D)(iii), shall not count
8 toward the time requirements under this
9 clause;

10 “(iv)(I) has paid any applicable Fed-
11 eral tax liability incurred by the alien dur-
12 ing the entire period for which the alien
13 has been in permanent resident status on
14 a conditional basis; or

15 “(II) has entered into an agreement
16 to pay the applicable Federal tax liability
17 through a payment installment plan ap-
18 proved by the Commissioner of Internal
19 Revenue; and

20 “(v) has demonstrated good moral
21 character during the entire period for
22 which the alien has been in permanent
23 resident status on a conditional basis.

24 “(B) CITIZENSHIP REQUIREMENT.—The
25 conditional basis of the permanent resident sta-

1 tus granted to an alien under this section may
2 not be removed unless the alien demonstrates
3 that the alien satisfies the requirements of sec-
4 tion 312(a).

5 “(C) APPLICATION FEE.—

6 “(i) IN GENERAL.—The Secretary
7 may require an alien applying for lawful
8 permanent resident status under this sub-
9 section to pay a reasonable fee that is com-
10 mensurate with the cost of processing the
11 application.

12 “(ii) EXEMPTION.—An applicant may
13 be exempted from paying the fee required
14 under clause (i) only if the alien—

15 “(I)(aa) is younger than 18 years
16 of age;

17 “(bb) received total income, dur-
18 ing the 1-year period immediately pre-
19 ceding the date on which the alien
20 files an application under this section,
21 that is less than 150 percent of the
22 poverty line; and

23 “(cc) is in foster care or other-
24 wise lacking any parental or other fa-
25 milial support;

1 “(II) is younger than 18 years of
2 age and is homeless;

3 “(III)(aa) cannot care for himself
4 or herself because of a serious, chron-
5 ic disability; and

6 “(bb) received total income, dur-
7 ing the 1-year period immediately pre-
8 ceding the date on which the alien
9 files an application under this section,
10 that is less than 150 percent of the
11 poverty line; or

12 “(IV)(aa) during the 1-year pe-
13 riod immediately preceding the date
14 on which the alien files an application
15 under this section, the alien accumu-
16 lated \$10,000 or more in debt as a re-
17 sult of unreimbursed medical expenses
18 incurred by the alien or an immediate
19 family member of the alien; and

20 “(bb) received total income, dur-
21 ing the 1-year period immediately pre-
22 ceding the date on which the alien
23 files an application under this section,
24 that is less than 150 percent of the
25 poverty line.

1 “(D) SUBMISSION OF BIOMETRIC AND BIO-
2 GRAPHIC DATA.—

3 “(i) IN GENERAL.—The Secretary
4 may not remove the conditional basis of
5 the permanent resident status of an alien
6 unless the alien submits biometric and bio-
7 graphic data, in accordance with proce-
8 dures established by the Secretary.

9 “(ii) ALTERNATIVE PROCEDURE.—
10 The Secretary shall provide an alternative
11 procedure for any applicant who is unable
12 to provide the biometric or biographic data
13 referred to in clause (i) due to physical im-
14 pairment.

15 “(E) BACKGROUND CHECKS.—

16 “(i) REQUIREMENT FOR BACKGROUND
17 CHECKS.—The Secretary shall use biomet-
18 ric, biographic, and other data that the
19 Secretary determines to be appropriate—

20 “(I) to conduct security and law
21 enforcement background checks of an
22 alien applying for removal of the con-
23 ditional basis of the permanent resi-
24 dent status of the alien; and

1 “(II) to determine whether there
2 is any criminal, national security, or
3 other factor that would render the
4 alien ineligible for removal of the con-
5 ditional basis of the permanent resi-
6 dent status of the alien.

7 “(ii) COMPLETION OF BACKGROUND
8 CHECKS.—The security and law enforce-
9 ment background checks of an alien re-
10 quired under clause (i) shall be completed,
11 to the satisfaction of the Secretary, before
12 the date on which the Secretary removes
13 the conditional basis of the permanent resi-
14 dent status of the alien.

15 “(2) NATURALIZATION.—

16 “(A) IN GENERAL.—For purposes of title
17 III, an alien granted permanent resident status
18 on a conditional basis shall be considered to
19 have been admitted to the United States, and
20 to be present in the United States, as an alien
21 lawfully admitted for permanent residence.

22 “(B) LIMITATIONS ON APPLICATION FOR
23 NATURALIZATION.—

24 “(i) IN GENERAL.—An alien shall not
25 be naturalized—

1 “(I) on any date on which the
2 alien is in permanent resident status
3 on a conditional basis; or

4 “(II) subject to clause (iii), be-
5 fore the date that is 12 years after
6 the date on which the alien was grant-
7 ed permanent resident status on a
8 conditional basis.

9 “(ii) ADVANCED FILING DATE.—Sub-
10 ject to clause (iii), with respect to an alien
11 granted permanent resident status on a
12 conditional basis, the alien may file an ap-
13 plication for naturalization not more than
14 90 days before the date that is 12 years
15 after the date on which the alien was
16 granted permanent resident status on a
17 conditional basis.

18 “(iii) REDUCTION IN PERIOD.—

19 “(I) IN GENERAL.—Subject to
20 subclause (II), the 12-year period re-
21 ferred to in clause (i)(II) and clause
22 (ii) may be reduced by the number of
23 days on which the alien was a DACA
24 recipient, if applicable.

1 “(II) LIMITATION.—Notwith-
2 standing subclause (I), the reduction
3 in the 12-year period referred to in
4 clause (i)(II) and clause (ii) shall be
5 not more than 2 years.

6 “(3) LIMITATION ON CERTAIN PARENTS.—An
7 alien shall not be eligible to adjust status to that of
8 an alien lawfully admitted for permanent residence
9 based on a petition filed by a child or a son or
10 daughter of the alien if—

11 “(A) the child or son or daughter was
12 granted permanent resident status on a condi-
13 tional basis; and

14 “(B) the alien knowingly assisted the child
15 or son or daughter to enter the United States
16 unlawfully.

17 “(q) DOCUMENTATION REQUIREMENTS.—

18 “(1) DOCUMENTS ESTABLISHING IDENTITY.—
19 An alien’s application for permanent resident status
20 on a conditional basis may include, as proof of iden-
21 tity—

22 “(A) a passport or national identity docu-
23 ment from the alien’s country of origin that in-
24 cludes the alien’s name and the alien’s photo-
25 graph or fingerprint;

1 “(B) the alien’s birth certificate and an
2 identity card that includes the alien’s name and
3 photograph;

4 “(C) a school identification card that in-
5 cludes the alien’s name and photograph, and
6 school records showing the alien’s name and
7 that the alien is or was enrolled at the school;

8 “(D) a Uniformed Services identification
9 card issued by the Department of Defense;

10 “(E) any immigration or other document
11 issued by the United States Government bear-
12 ing the alien’s name and photograph; or

13 “(F) a State-issued identification card
14 bearing the alien’s name and photograph.

15 “(2) DOCUMENTS ESTABLISHING CONTINUOUS
16 PHYSICAL PRESENCE IN THE UNITED STATES.—To
17 establish that an alien has been continuously phys-
18 ically present in the United States, as required
19 under subsection (b)(2)(A), or to establish that an
20 alien has not abandoned residence in the United
21 States, as required under subsection (p)(1)(A)(ii),
22 the alien may submit documents to the Secretary,
23 including—

24 “(A) employment records that include the
25 employer’s name and contact information;

1 “(B) records from any educational institu-
2 tion the alien has attended in the United
3 States;

4 “(C) records of service from the Uniformed
5 Services;

6 “(D) official records from a religious entity
7 confirming the alien’s participation in a reli-
8 gious ceremony;

9 “(E) passport entries;

10 “(F) a birth certificate for a child of the
11 alien who was born in the United States;

12 “(G) automobile license receipts or reg-
13 istration;

14 “(H) deeds, mortgages, or rental agree-
15 ment contracts;

16 “(I) tax receipts;

17 “(J) insurance policies;

18 “(K) remittance records;

19 “(L) rent receipts or utility bills bearing
20 the alien’s name or the name of an immediate
21 family member of the alien, and the alien’s ad-
22 dress;

23 “(M) copies of money order receipts for
24 money sent in or out of the United States;

25 “(N) dated bank transactions; or

1 “(O) 2 or more sworn affidavits from indi-
2 viduals who are not related to the alien who
3 have direct knowledge of the alien’s continuous
4 physical presence in the United States, that
5 contain—

6 “(i) the name, address, and telephone
7 number of the affiant; and

8 “(ii) the nature and duration of the
9 relationship between the affiant and the
10 alien.

11 “(3) DOCUMENTS ESTABLISHING INITIAL
12 ENTRY INTO THE UNITED STATES.—To establish
13 under subsection (b)(2)(B) that an alien was young-
14 er than 18 years of age on the date on which the
15 alien initially entered the United States, an alien
16 may submit documents to the Secretary, including—

17 “(A) an admission stamp on the alien’s
18 passport;

19 “(B) records from any educational institu-
20 tion the alien has attended in the United
21 States;

22 “(C) any document from the Department
23 of Justice or the Department of Homeland Se-
24 curity stating the alien’s date of entry into the
25 United States;

1 “(D) hospital or medical records showing
2 medical treatment or hospitalization, the name
3 of the medical facility or physician, and the
4 date of the treatment or hospitalization;

5 “(E) rent receipts or utility bills bearing
6 the alien’s name or the name of an immediate
7 family member of the alien, and the alien’s ad-
8 dress;

9 “(F) employment records that include the
10 employer’s name and contact information;

11 “(G) official records from a religious entity
12 confirming the alien’s participation in a reli-
13 gious ceremony;

14 “(H) a birth certificate for a child of the
15 alien who was born in the United States;

16 “(I) automobile license receipts or registra-
17 tion;

18 “(J) deeds, mortgages, or rental agreement
19 contracts;

20 “(K) tax receipts;

21 “(L) travel records;

22 “(M) copies of money order receipts sent
23 in or out of the country;

24 “(N) dated bank transactions;

25 “(O) remittance records; or

1 “(P) insurance policies.

2 “(4) DOCUMENTS ESTABLISHING ADMISSION TO
3 AN INSTITUTION OF HIGHER EDUCATION.—To es-
4 tablish that an alien has been admitted to an institu-
5 tion of higher education, the alien shall submit to
6 the Secretary a document from the institution of
7 higher education certifying that the alien—

8 “(A) has been admitted to the institution;
9 or

10 “(B) is currently enrolled in the institution
11 as a student.

12 “(5) DOCUMENTS ESTABLISHING RECEIPT OF A
13 DEGREE FROM AN INSTITUTION OF HIGHER EDU-
14 CATION.—To establish that an alien has acquired a
15 degree from an institution of higher education in the
16 United States, the alien shall submit to the Sec-
17 retary a diploma or other document from the institu-
18 tion stating that the alien has received such a de-
19 gree.

20 “(6) DOCUMENTS ESTABLISHING RECEIPT OF
21 HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL
22 DEVELOPMENT CERTIFICATE, OR A RECOGNIZED
23 EQUIVALENT.—To establish that an alien has earned
24 a high school diploma or a commensurate alternative
25 award from a public or private high school, or has

1 obtained a general educational development certifi-
2 cate recognized under State law or a high school
3 equivalency diploma in the United States, the alien
4 shall submit to the Secretary—

5 “(A) a high school diploma, certificate of
6 completion, or other alternate award;

7 “(B) a high school equivalency diploma or
8 certificate recognized under State law; or

9 “(C) evidence that the alien passed a
10 State-authorized exam, including the general
11 educational development exam, in the United
12 States.

13 “(7) DOCUMENTS ESTABLISHING ENROLLMENT
14 IN AN EDUCATIONAL PROGRAM.—To establish that
15 an alien is enrolled in any school or education pro-
16 gram described in subsection (b)(2)(D)(iii),
17 (m)(1)(C), or (p)(1)(A)(iii)(III), the alien shall sub-
18 mit school records from the United States school
19 that the alien is currently attending that include—

20 “(A) the name of the school; and

21 “(B) the alien’s name, periods of attend-
22 ance, and current grade or educational level.

23 “(8) DOCUMENTS ESTABLISHING EXEMPTION
24 FROM APPLICATION FEES.—To establish that an
25 alien is exempt from an application fee under sub-

1 section (f)(2) or (p)(1)(C)(ii), the alien shall submit
2 to the Secretary the following relevant documents:

3 “(A) DOCUMENTS TO ESTABLISH AGE.—

4 To establish that an alien meets an age require-
5 ment, the alien shall provide proof of identity,
6 as described in paragraph (1), that establishes
7 that the alien is younger than 18 years of age.

8 “(B) DOCUMENTS TO ESTABLISH IN-
9 COME.—To establish the alien’s income, the
10 alien shall provide—

11 “(i) employment records that have
12 been maintained by the Social Security Ad-
13 ministration, the Internal Revenue Service,
14 or any other Federal, State, or local gov-
15 ernment agency;

16 “(ii) bank records; or

17 “(iii) at least 2 sworn affidavits from
18 individuals who are not related to the alien
19 and who have direct knowledge of the
20 alien’s work and income that contain—

21 “(I) the name, address, and tele-
22 phone number of the affiant; and

23 “(II) the nature and duration of
24 the relationship between the affiant
25 and the alien.

1 “(C) DOCUMENTS TO ESTABLISH FOSTER
2 CARE, LACK OF FAMILIAL SUPPORT, HOMELESS-
3 NESS, OR SERIOUS, CHRONIC DISABILITY.—To
4 establish that the alien was in foster care, lacks
5 parental or familial support, is homeless, or has
6 a serious, chronic disability, the alien shall pro-
7 vide at least 2 sworn affidavits from individuals
8 who are not related to the alien and who have
9 direct knowledge of the circumstances that con-
10 tain—

11 “(i) a statement that the alien is in
12 foster care, otherwise lacks any parental or
13 other familiar support, is homeless, or has
14 a serious, chronic disability, as appro-
15 priate;

16 “(ii) the name, address, and telephone
17 number of the affiant; and

18 “(iii) the nature and duration of the
19 relationship between the affiant and the
20 alien.

21 “(D) DOCUMENTS TO ESTABLISH UNPAID
22 MEDICAL EXPENSE.—To establish that the alien
23 has debt as a result of unreimbursed medical
24 expenses, the alien shall provide receipts or

1 other documentation from a medical provider
2 that—

3 “(i) bear the provider’s name and ad-
4 dress;

5 “(ii) bear the name of the individual
6 receiving treatment; and

7 “(iii) document that the alien has ac-
8 cumulated \$10,000 or more in debt in the
9 past 12 months as a result of unreim-
10 bursed medical expenses incurred by the
11 alien or an immediate family member of
12 the alien.

13 “(9) DOCUMENTS ESTABLISHING SERVICE IN
14 THE UNIFORMED SERVICES.—To establish that an
15 alien has served in the Uniformed Services for at
16 least 2 years and, if discharged, received an honor-
17 able discharge, the alien shall submit to the Sec-
18 retary—

19 “(A) a Department of Defense form DD-
20 214;

21 “(B) a National Guard Report of Separ-
22 ation and Record of Service form 22;

23 “(C) personnel records for such service
24 from the appropriate Uniformed Service; or

1 “(D) health records from the appropriate
2 Uniformed Service.

3 “(10) DOCUMENTS ESTABLISHING EMPLOY-
4 MENT.—

5 “(A) IN GENERAL.—An alien may satisfy
6 the employment requirement under section
7 (p)(1)(A)(iii)(III) by submitting records that—

8 “(i) establish compliance with such
9 employment requirement; and

10 “(ii) have been maintained by the So-
11 cial Security Administration, the Internal
12 Revenue Service, or any other Federal,
13 State, or local government agency.

14 “(B) OTHER DOCUMENTS.—An alien who
15 is unable to submit the records described in
16 subparagraph (A) may satisfy the employment
17 requirement by submitting at least 2 types of
18 reliable documents that provide evidence of em-
19 ployment, including—

20 “(i) bank records;

21 “(ii) business records;

22 “(iii) employer records;

23 “(iv) records of a labor union, day
24 labor center, or organization that assists
25 workers in employment;

1 “(v) sworn affidavits from individuals
2 who are not related to the alien and who
3 have direct knowledge of the alien’s work,
4 that contain—

5 “(I) the name, address, and tele-
6 phone number of the affiant; and

7 “(II) the nature and duration of
8 the relationship between the affiant
9 and the alien; and

10 “(vi) remittance records.

11 “(11) AUTHORITY TO PROHIBIT USE OF CER-
12 TAIN DOCUMENTS.—If the Secretary determines,
13 after publication in the Federal Register and an op-
14 portunity for public comment, that any document or
15 class of documents does not reliably establish iden-
16 tity or that permanent resident status on a condi-
17 tional basis is being obtained fraudulently to an un-
18 acceptable degree, the Secretary may prohibit or re-
19 strict the use of such document or class of docu-
20 ments.

21 “(r) RULEMAKING.—

22 “(1) INITIAL PUBLICATION.—

23 “(A) IN GENERAL.—Not later than 90
24 days after the date of enactment of this section,

1 the Secretary shall publish in the Federal Reg-
2 ister regulations implementing this section.

3 “(B) AFFIRMATIVE APPLICATION.—The
4 regulations published under subparagraph (A)
5 shall allow any eligible individual to imme-
6 diately apply affirmatively for the relief avail-
7 able under subsection (b) without being placed
8 in removal proceedings.

9 “(2) INTERIM REGULATIONS.—Notwithstanding
10 section 553 of title 5, United States Code, the regu-
11 lations published pursuant to paragraph (1)(A) shall
12 be effective, on an interim basis, immediately on
13 publication in the Federal Register, but may be sub-
14 ject to change and revision after public notice and
15 opportunity for a period of public comment.

16 “(3) FINAL REGULATIONS.—Not later than 180
17 days after the date on which interim regulations are
18 published under this subsection, the Secretary shall
19 publish final regulations implementing this section.

20 “(4) PAPERWORK REDUCTION ACT.—The re-
21 quirements under chapter 35 of title 44, United
22 States Code, (commonly known as the ‘Paperwork
23 Reduction Act’) shall not apply to any action to im-
24 plement this subsection.

25 “(s) CONFIDENTIALITY OF INFORMATION.—

1 “(1) IN GENERAL.—The Secretary may not dis-
2 close or use for the purpose of immigration enforce-
3 ment any information provided in—

4 “(A) an application filed under this sec-
5 tion; or

6 “(B) a request for deferred action status
7 under DACA.

8 “(2) REFERRALS PROHIBITED.—The Secretary
9 may not refer to U.S. Immigration and Customs En-
10 forcement, U.S. Customs and Border Protection, or
11 any designee of U.S. Immigration and Customs En-
12 forcement or U.S. Customs and Border Protection
13 any individual who—

14 “(A) has been granted permanent resident
15 status on a conditional basis; or

16 “(B) was granted deferred action status
17 under DACA.

18 “(3) LIMITED EXCEPTION.—Notwithstanding
19 paragraphs (1) and (2), information provided in an
20 application for permanent resident status on a con-
21 ditional basis or a request for deferred action status
22 under DACA may be shared with a Federal security
23 or law enforcement agency—

1 “(A) for assistance in the consideration of
2 an application for permanent resident status on
3 a conditional basis;

4 “(B) to identify or prevent fraudulent
5 claims;

6 “(C) for national security purposes; or

7 “(D) for the investigation or prosecution of
8 any felony not related to immigration status.

9 “(4) PENALTY.—Any person who knowingly
10 uses, publishes, or permits information to be exam-
11 ined in violation of this subsection shall be fined not
12 more than \$10,000.”.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents of the Immigration and Nationality Act (8 U.S.C.
15 1101 note) is amended by inserting after the item relating
16 to section 244 the following:

 “Sec. 244A. Cancellation of removal for certain long-term residents who en-
 tered the United States as children.”.

17 **SEC. 3. REDUCTION OF FAMILY-SPONSORED IMMIGRANT**
18 **VISAS.**

19 (a) PROHIBITION AGAINST THE SPONSOR OF UN-
20 MARRIED CHILDREN OLDER THAN 21 YEARS OF AGE BY
21 LAWFUL PERMANENT RESIDENTS.—Section 203(a) of the
22 Immigration and Nationality Act (8 U.S.C. 1153(a)) is
23 amended by striking paragraph (2) and inserting the fol-
24 lowing:

1 “(2) SPOUSES AND CHILDREN OF ALIENS LAW-
2 FULLY ADMITTED FOR PERMANENT RESIDENCE.—

3 “(A) IN GENERAL.—Qualified immigrants
4 who are the spouse or child of an alien lawfully
5 admitted for permanent residence shall be allo-
6 cated visas in a number not to exceed the sum
7 of—

8 “(i) 114,200;

9 “(ii) the number (if any) by which
10 such worldwide level exceeds 226,000; and

11 “(iii) the number of visas not required
12 for the class described in paragraph (1).

13 “(B) TRANSITION PERIOD.—

14 “(i) IN GENERAL.—The Secretary of
15 State shall not allocate a visa based on a
16 petition filed by an alien lawfully admitted
17 for permanent residence on behalf of an
18 unmarried son or daughter under subpara-
19 graph (B) (as in effect on the day before
20 the date of enactment of this Act) after
21 December 31, 2018.

22 “(ii) SAVINGS CLAUSE.—The Sec-
23 retary of State shall allocate a visa to a
24 principal or derivative beneficiary of an ap-
25 proved petition filed by an alien lawfully

1 admitted for permanent residence on be-
2 half of a spouse or an unmarried son or
3 daughter under subparagraph (B) (as in
4 effect on the day before the date of enact-
5 ment of this Act) before January 1, 2019,
6 in accordance with that subparagraph (as
7 in effect on the day before the date of en-
8 actment of this Act), if the principal or de-
9 rivative beneficiary is otherwise eligible for
10 the visa.

11 “(C) RETENTION OF PRIORITY DATE.—In
12 the case of an alien child who is the principal
13 or derivative beneficiary of a petition filed
14 under subparagraph (A) who turns 21 years old
15 before the date on which a visa becomes avail-
16 able, the alien may retain the priority date as-
17 signed to the alien under that subparagraph for
18 a petition filed under this subsection.”.

19 (b) CONFORMING AMENDMENTS.—The Immigration
20 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

21 (1) in section 101(a)(15)(V) (8 U.S.C.
22 1101(a)(15)(V)), by striking “section 203(a)(2)(A)”
23 each place such term appears and inserting “section
24 203(a)(2)”;

1 (2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)),
2 by striking “section 203(a)(2)(A)” and inserting
3 “section 203(a)(2)”;

4 (3) in section 202—

5 (A) in subsection (a)(8 U.S.C. 1152(a))—

6 (i) in paragraph (2), by striking “(3),
7 (4), and (5)” and inserting “(3) and (4)”

8 (ii) by striking paragraph (4); and

9 (iii) by redesignating paragraph (5) as
10 paragraph (4); and

11 (B) in subsection (e), by striking “, or as
12 limiting the number of visas that may be issued
13 under section 203(a)(2)(A) pursuant to sub-
14 section (a)(4)(A)”;

15 (4) in section 203(h)—

16 (A) in paragraph (3), by striking “sub-
17 sections (a)(2)(A) and (d)” and inserting “sub-
18 section (d)”;

19 (B) by striking “(a)(2)(A)” each place
20 such term appears and inserting “(a)(2)”;

21 (5) in section 204—

22 (A) in subsection (a)(1)(B)—

23 (i) in clause (ii)—

24 (I) in subclause (I), by striking
25 “if such a child has not been classified

1 under clause (iii) of section
2 203(a)(2)(A) and”; and

3 (II) in subclause (II)(cc), by
4 striking “section 203(a)(2)(A)” and
5 inserting “section 203(a)(2)”;

6 (ii) in clause (iii), by striking “section
7 203(a)(2)(A)” and inserting “section
8 203(a)(2)”;

9 (B) in subsection (k)(1)—

10 (i) by striking “alien unmarried son
11 or daughter’s classification as a family-
12 sponsored immigrant under section
13 203(a)(2)(B)” and inserting “alien child’s
14 classification as a family-sponsored immi-
15 grant under section 203(a)(2)”;

16 (ii) by striking “son or daughter” and
17 inserting “child”; and

18 (iii) by striking “unmarried son or
19 daughter as a family-sponsored immigrant
20 under section 203(a)(1)” and inserting
21 “child as an immediate relative under sec-
22 tion 201(b)(2)”;

23 (6) in section 214(q)(1)(B)(i), by striking
24 “(a)(2)(A)” each place such term appears and in-
25 serting “(a)(2)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date on which—

3 (1) the Secretary of Homeland Security has ad-
4 judicated each petition that is filed under section
5 203(a)(2)(B) (as in effect on the day before the date
6 of enactment of this Act) before January 1, 2019;
7 and

8 (2) the Secretary of State has allocated to each
9 eligible alien a visa based on a petition described in
10 paragraph (1).

11 **SEC. 4. BORDER SECURITY.**

12 (a) DEFINITION OF SECRETARY.—In this section, the
13 term “Secretary” means the Secretary of Homeland Secu-
14 rity.

15 (b) APPROPRIATIONS FOR BORDER SECURITY.—The
16 following sum is appropriated, out of any money in the
17 Treasury not otherwise appropriated, for U.S. Customs
18 and Border Protection, namely \$25,000,000,000 for—

- 19 (1) the construction of physical barriers;
20 (2) border security technologies;
21 (3) tactical infrastructure;
22 (4) marine vessels;
23 (5) aircraft;
24 (6) unmanned aerial systems;
25 (7) facilities; and

1 (8) equipment.

2 (c) AVAILABILITY FOR FISCAL YEAR 2018.—Of the
3 amount appropriated by subsection (b), amounts shall be
4 available for fiscal year 2018 as follows:

5 (1) For impedance and denial, \$1,571,000,000.

6 (2) For domain awareness, \$658,000,000.

7 (3) For access and mobility, \$143,000,000.

8 (4) For the retention, recruitment, and reloca-
9 tion of officers of Border Patrol Agents, Customs
10 Officers, and Air and Marine personnel,
11 \$148,000,000, including for not fewer than 615 offi-
12 cers of U.S. Customs and Border Protection.

13 (5) To hire 615 U.S. Customs and Border Pro-
14 tection Officers for deployment to ports of entry,
15 \$75,000,000.

16 (d) AVAILABILITY FOR FISCAL YEARS 2019
17 THROUGH 2027.—

18 (1) IN GENERAL.—Subject to subsection (f), of
19 the amount appropriated by subsection (b), the
20 amount available for each of fiscal years 2019
21 through 2027 shall be \$2,500,000,000.

22 (2) LIMITATION.—Amounts appropriated under
23 subsection (b) for fiscal years 2018 and 2019 shall
24 only be available for operationally effective designs
25 deployed as of the date of the Consolidated Appro-

1 priations Act, 2017 (Public Law 115–31), such as
2 currently deployed steel bollard designs, that
3 prioritize agent safety.

4 (c) REPORT ON PLAN FOR IMPROVEMENT OF BOR-
5 DER SECURITY.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of the enactment of this Act, the Sec-
8 retary shall submit to the Committees on Appropria-
9 tions of the Senate and the House of Representa-
10 tives and the Committees of jurisdiction of the Sen-
11 ate and the House of Representatives a risk-based
12 plan for improving security along the borders of the
13 United States, including the use of personnel, fenc-
14 ing, other forms of tactical infrastructure, and tech-
15 nology.

16 (2) ELEMENTS.—The report required by this
17 subsection shall include the following:

18 (A) A statement of goals, objectives, activi-
19 ties, and milestones for the plan.

20 (B) A detailed implementation schedule for
21 the plan with estimates for the planned obliga-
22 tion of funds for fiscal years 2019 through
23 2027 that are linked to the milestone-based de-
24 livery of specific—

25 (i) capabilities and services;

- 1 (ii) mission benefits and outcomes;
- 2 (iii) program management capabilities;
- 3 and
- 4 (iv) lifecycle cost estimates.

5 (C) A description of the manner in which
6 specific projects under the plan will enhance
7 border security goals and objectives and address
8 the highest priority border security needs.

9 (D) An identification of the planned loca-
10 tions, quantities, and types of resources, such
11 as fencing, other physical barriers, or other tac-
12 tical infrastructure and technology, under the
13 plan.

14 (E) A description of the methodology and
15 analyses used to select specific resources for de-
16 ployment to particular locations under the plan
17 that includes—

- 18 (i) analyses of alternatives, including
- 19 comparative costs and benefits;
- 20 (ii) an assessment of effects on com-
- 21 munities and property owners near areas
- 22 of infrastructure deployment; and
- 23 (iii) a description of other factors crit-
- 24 ical to the decision-making process.

1 (F) An identification of staffing require-
2 ments under the plan, including full-time
3 equivalents, contractors, and detailed personnel,
4 by activity.

5 (G) A description of performance metrics
6 for the plan for assessing and reporting on the
7 contributions of border security capabilities re-
8 alized from current and future investments.

9 (H) A description of the status of the ac-
10 tions of the Department of Homeland Security
11 to address open recommendations by the Office
12 of Inspector General and the Government Ac-
13 countability Office relating to border security,
14 including plans, schedules, and associated mile-
15 stones for fully addressing such recommenda-
16 tions.

17 (I) A comprehensive plan to consult State
18 and local elected officials on the eminent do-
19 main and construction process relating to phys-
20 ical barriers;

21 (J) A comprehensive analysis, following
22 consultation with the Secretary of Interior and
23 the Administrator of the Environmental Protec-
24 tion Agency, of the environmental impacts of
25 the construction and placement of physical bar-

riers planned along the Southwest border, including barriers in the Santa Ana National Wildlife Refuge;

(K) Certifications by the Under Secretary of Homeland Security for Management, including all documents, memoranda, and a description of the investment review and information technology management oversight and processes supporting such certifications, that—

(i) the plan has been reviewed and approved in accordance with an acquisition review management process that complies with capital planning and investment control and review requirements established by the Office of Management and Budget, including as provided in Circular A-11, part 7; and

(ii) all activities under the plan comply with Federal acquisition rules, requirements, guidelines, and practices.

(f) LIMITATION ON AVAILABILITY FOR FISCAL YEARS 2019 THROUGH 2027.—

(1) LIMITATION.—The amount specified in subsection (d) for each of fiscal years 2019 through

1 2027 shall not be available for such fiscal year un-
2 less—

3 (A) the Secretary submits to Congress, not
4 later than 60 days before the beginning of such
5 fiscal year, a report setting forth—

6 (i) a description of every planned ex-
7 penditure in such fiscal year under the
8 plan required by subsection (e) in an
9 amount in excess of \$50,000,000;

10 (ii) a description of the total number
11 of miles of security fencing or barriers that
12 will be constructed in such fiscal year
13 under the plan;

14 (iii) a statement of the number of new
15 U.S. Customs and Border Protection Offi-
16 cers to be hired in such fiscal year under
17 the plan and the intended location of de-
18 ployment;

19 (iv) a description of the new roads to
20 be installed in such fiscal year under the
21 plan;

22 (v) a description of the land to be ac-
23 quired in such fiscal year under the plan,
24 including—

1 (I) all necessary land acquisi-
2 tions;

3 (II) the total number of nec-
4 essary condemnation actions; and

5 (III) the precise number of land-
6 owners that will be affected by the
7 construction of such physical barriers;

8 (vi) a description of the amount and
9 types of technology to be acquired for each
10 of the northern border and the southern
11 border in such fiscal year under the plan;
12 and

13 (vii) a statement of the percentage of
14 each of the northern border and the south-
15 ern border for which the Department of
16 Homeland Security will obtain full situa-
17 tional awareness in such fiscal year under
18 the plan; and

19 (B) not later than October 1 of such fiscal
20 year, the Secretary certifies to Congress that
21 the Department of Homeland achieved not less
22 than 75 percent of the goals of the Department
23 under the plan (other than for land acquisition)
24 for the prior fiscal year.

1 (2) AVAILABILITY WITHOUT CERTIFICATION.—

2 If the Secretary is unable to make the certification
3 described in paragraph (1)(B) with respect to a fis-
4 cal year as of October 1 of the succeeding fiscal
5 year, the amount specified in subsection (d) for such
6 succeeding fiscal year shall not be available except
7 pursuant to an Act of Congress specifically making
8 such amount available for such succeeding fiscal
9 year that is enacted into law in such succeeding fis-
10 cal year.

11 (g) AVAILABILITY.—If amounts described in sub-
12 section (d) are available for a fiscal year, such amounts
13 shall remain available for 5 years.

14 (h) LIMITATION.—Notwithstanding any other provi-
15 sion of law, none of the amounts appropriated under this
16 section may be reprogrammed for or transferred to any
17 other component of the Department of Homeland Secu-
18 rity.

19 (i) BUDGET REQUEST.—An expenditure plan for
20 amounts made available pursuant to subsection (b)—

21 (1) shall be included in each budget for a fiscal
22 year submitted by the President under section 1105
23 of title 31, United States Code; and

24 (2) shall describe planned obligations by pro-
25 gram, project, and activity in the receiving account

1 at the same level of detail provided for in the re-
2 quest for other appropriations in that account.

3 (j) BUDGETARY EFFECTS.—

4 (1) IN GENERAL.—The budgetary effects of this
5 section shall not be entered on either PAYGO score-
6 card maintained pursuant to section 4(d) of the
7 Statutory Pay-As-You-Go Act of 2010.

8 (2) SENATE PAYGO SCORECARDS.—The budg-
9 etary effects of this section shall not be entered on
10 any PAYGO scorecard maintained for purposes of
11 section 4106 of H.Con.Res. 71 (115th Congress).

12 (k) POINT OF ORDER.—

13 (1) DEFINITION.—In this subsection, the term
14 “covered appropriation amount” means the amount
15 appropriated for border security for a fiscal year
16 under subsection (b).

17 (2) POINT OF ORDER IN THE SENATE.—

18 (A) POINT OF ORDER.—

19 (i) IN GENERAL.—In the Senate, it
20 shall not be in order to consider a provi-
21 sion in a bill, joint resolution, motion,
22 amendment, amendment between the
23 Houses, or conference report that would
24 reduce the covered appropriation amount
25 for a fiscal year.

1 (ii) POINT OF ORDER SUSTAINED.—If
2 a point of order is made by a Senator
3 against a provision described in clause (i),
4 and the point of order is sustained by the
5 Chair, that provision shall be stricken from
6 the measure and may not be offered as an
7 amendment from the floor.

8 (B) FORM OF THE POINT OF ORDER.—A
9 point of order under subparagraph (A) may be
10 raised by a Senator as provided in section
11 313(e) of the Congressional Budget Act of
12 1974 (2 U.S.C. 644(e)).

13 (C) CONFERENCE REPORTS.—When the
14 Senate is considering a conference report on, or
15 an amendment between the Houses in relation
16 to, a bill or joint resolution, upon a point of
17 order being made by any Senator pursuant to
18 subparagraph (A), and such point of order
19 being sustained, such material contained in
20 such conference report or House amendment
21 shall be stricken, and the Senate shall proceed
22 to consider the question of whether the Senate
23 shall recede from its amendment and concur
24 with a further amendment, or concur in the
25 House amendment with a further amendment,

1 as the case may be, which further amendment
2 shall consist of only that portion of the con-
3 ference report or House amendment, as the
4 case may be, not so stricken. Any such motion
5 in the Senate shall be debatable. In any case in
6 which such point of order is sustained against
7 a conference report (or Senate amendment de-
8 rived from such conference report by operation
9 of this subsection), no further amendment shall
10 be in order.

11 (D) SUPERMAJORITY WAIVER AND AP-
12 PEAL.—In the Senate, this paragraph may be
13 waived or suspended only by an affirmative vote
14 of three-fifths of the Members, duly chosen and
15 sworn. An affirmative vote of three-fifths of
16 Members of the Senate, duly chosen and sworn
17 shall be required to sustain an appeal of the
18 ruling of the Chair on a point of order raised
19 under this paragraph.

20 (I) ENFORCEMENT PRIORITIES.—

21 (1) DEFINITIONS.—In this subsection:

22 (A) FELONY.—

23 (i) IN GENERAL.—The term “felony”
24 means a Federal, State, or local criminal

1 offense punishable by imprisonment for a
2 term that exceeds 1 year.

3 (ii) EXCLUSION.—The term “felony”
4 does not include a State or local criminal
5 offense for which an essential element is
6 the immigration status of an alien.

7 (B) MISDEMEANOR.—

8 (i) IN GENERAL.—The term “mis-
9 demeanor” means a Federal, State, or
10 local criminal offense for which—

11 (I) the maximum term of impris-
12 onment is—

13 (aa) greater than 5 days;

14 and

15 (bb) not greater than 1 year;

16 and

17 (II) the individual was sentenced
18 to time in custody of 90 days or less.

19 (ii) EXCLUSION.—The term “mis-
20 demeanor” does not include a State or
21 local offense for which an essential element
22 is—

23 (I) the immigration status of the
24 alien;

1 (II) a significant misdemeanor;

2 or

3 (III) a minor traffic offense.

4 (C) SIGNIFICANT MISDEMEANOR.—

5 (i) IN GENERAL.—The term “signifi-
6 cant misdemeanor” means a Federal,
7 State, or local criminal offense—

8 (I) for which the maximum term
9 of imprisonment is—

10 (aa) more than 5 days; and

11 (bb) not more than 1 year;

12 and

13 (II)(aa) that, regardless of the
14 sentence imposed, is—

15 (AA) a crime of domestic vi-
16 olence (as defined in section
17 237(a)(2)(E)(i)) of the Immigra-
18 tion and Nationality Act (8
19 U.S.C. 1227(a)(2)(E)(i)); or

20 (BB) an offense of—

21 (CC) sexual abuse or
22 exploitation;

23 (DD) burglary;

24 (EE) unlawful posses-
25 sion or use of a firearm;

1 (FF) drug distribution
2 or trafficking; or
3 (GG) driving under the
4 influence, if the applicable
5 State law requires, as ele-
6 ments of the offense, the op-
7 eration of a motor vehicle
8 and a finding of impairment
9 or a blood alcohol content
10 equal to or greater than .08;
11 or

12 (bb) that resulted in a sentence
13 of time in custody of more than 90
14 days.

15 (ii) EXCLUSION.—The term “signifi-
16 cant misdemeanor” does not include a
17 State or local offense for which an essen-
18 tial element is the immigration status of
19 an alien.

20 (2) PRIORITIES.—In carrying out immigration
21 enforcement activities, the Secretary shall prioritize
22 available immigration enforcement resources to
23 aliens who—

24 (A) have been convicted of—

25 (i) a felony;

- 1 (ii) a significant misdemeanor; or
2 (iii) 3 or more misdemeanor offenses;
3 (B) pose a threat to national security or
4 public safety; or
5 (C)(i) are unlawfully present in the United
6 States; and
7 (ii) arrived in the United States after Jan- June 30,
8 uary 1, 2018; or 2018
9 (iii) have not been physically present in the
10 United States for a continuous period since
11 June 15, 2012.

12 **SEC. 5. OFFICE OF PROFESSIONAL RESPONSIBILITY.**

13 Not later than September 30, 2021, the Commis-
14 sioner of U.S. Customs and Border Protection shall hire,
15 train, and assign sufficient special agents at the Office of
16 Professional Responsibility.