113TH CONGRESS
1ST SESSION
H.R. _______

To provide for comprehensive immigration reform and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GARCIA (for himself, Ms. CHU, Ms. DELBENE, Mr. HORSFORD, and Mr. POLIS) introduced the following bill; which was referred to the Committee on

To provide for comprehensive immigration reform and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
4 (a) SHORT TITLE.—This Act may be cited as the
5 “Border Security, Economic Opportunity, and Immigra-
6 tion Modernization Act”.
7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Statement of congressional findings.
Sec. 3. Reports on current border security status.
Sec. 4. Border security metrics and goals.
Sec. 5. Southern Border Security Commission.
Sec. 6. Border Security Results Strategy.
Sec. 7. US-VISIT Implementation.
Sec. 8. Alternate model for border security strategy development.
Sec. 9. Comprehensive Immigration Reform Funds.
Sec. 10. Reference to the Immigration and Nationality Act.
Sec. 11. Definitions.
Sec. 12. Grant accountability.

TITLE I—BORDER SECURITY

Sec. 1101. Definitions.
Sec. 1102. Additional U.S. Customs and Border Protection officers.
Sec. 1103. National Guard support to secure the Southern border.
Sec. 1104. Enhancement of existing border security operations.
Sec. 1105. Border security on certain Federal land.
Sec. 1106. Equipment and technology.
Sec. 1107. Access to emergency personnel.
Sec. 1108. Southwest Border Region Prosecution Initiative.
Sec. 1109. Interagency collaboration.
Sec. 1110. State Criminal Alien Assistance Program.
Sec. 1111. Use of force.
Sec. 1112. Training for border security and immigration enforcement officers.
Sec. 1115. Protection of family values in apprehension programs.
Sec. 1116. Reports.
Sec. 1117. Severability and delegation.
Sec. 1118. Prohibition on land border crossing fees.
Sec. 1119. Human Trafficking Reporting.
Sec. 1120. Rule of construction.
Sec. 1121. Limitations on dangerous deportation practices.
Sec. 1122. Maximum allowable costs of salaries of contractor employees.

TITLE II—IMMIGRANT VISAS

Subtitle A—Registration and Adjustment of Registered Provisional Immigrants

Sec. 2101. Registered provisional immigrant status.
Sec. 2102. Adjustment of status of registered provisional immigrants.
Sec. 2103. The DREAM Act.
Sec. 2104. Additional requirements.
Sec. 2105. Criminal penalty.
Sec. 2106. Grant program to assist eligible applicants.
Sec. 2107. Conforming amendments to the Social Security Act.
Sec. 2108. Government contracting and acquisition of real property interest.
Sec. 2109. Long-term legal residents of the Commonwealth of the Northern Mariana Islands.
Sec. 2110. Rulemaking.
Sec. 2111. Statutory construction.

Subtitle B—Agricultural Worker Program
Sec. 2201. Short title.
Sec. 2202. Definitions.

CHAPTER 1—PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SUBCHAPTER A—BLUE CARD STATUS

Sec. 2211. Requirements for blue card status.
Sec. 2212. Adjustment to permanent resident status.
Sec. 2213. Use of information.
Sec. 2214. Reports on blue cards.
Sec. 2215. Authorization of appropriations.

SUBCHAPTER B—CORRECTION OF SOCIAL SECURITY RECORDS

Sec. 2221. Correction of social security records.

CHAPTER 2—NONIMMIGRANT AGRICULTURAL VISA PROGRAM

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Sec. 2232. Establishment of nonimmigrant agricultural worker program.
Sec. 2233. Transition of I-2A Worker Program.
Sec. 2234. Reports to Congress on nonimmigrant agricultural workers.

CHAPTER 3—OTHER PROVISIONS

Sec. 2241. Rulemaking.
Sec. 2242. Reports to Congress.
Sec. 2243. Benefits integrity programs.
Sec. 2244. Effective date.

Subtitle C—Future Immigration

Sec. 2301. Merit-based points track one.
Sec. 2302. Merit-based track two.
Sec. 2303. Repeal of the diversity visa program.
Sec. 2304. Worldwide levels and recapture of unused immigrant visas.
Sec. 2305. Reclassification of spouses and minor children of lawful permanent residents as immediate relatives.
Sec. 2306. Numerical limitations on individual foreign states.
Sec. 2307. Allocation of immigrant visas.
Sec. 2308. Inclusion of communities adversely affected by a recommendation of the Defense Base Closure and Realignment Commission as targeted employment areas.
Sec. 2309. V nonimmigrant visas.
Sec. 2310. Fiancee and fiance child status protection.
Sec. 2311. Equal treatment for all stepchildren.
Sec. 2312. Modification of adoption age requirements.
Sec. 2313. Relief for orphans, widows, and widowers.
Sec. 2314. Discretionary authority with respect to removal, deportation, or inadmissibility of citizen and resident immediate family members.
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Sec. 2318. Extension and improvement of the Iraqi special immigrant visa program.
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Sec. 2403. Employment protections for physicians.
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1 SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS.

2 Congress makes the following findings:

3 (1) The passage of this Act recognizes that the primary tenets of its success depend on securing the sovereignty of the United States of America and establishing a coherent and just system for integrating those who seek to join American society.

4 (2) We have a right, and duty, to maintain and secure our borders, and to keep our country safe and prosperous. As a Nation founded, built and sustained by immigrants we also have a responsibility to harness the power of that tradition in a balanced way that secures a more prosperous future for America.
(3) We have always welcomed newcomers to the United States and will continue to do so. But in order to qualify for the honor and privilege of eventual citizenship, our laws must be followed. The world depends on America to be strong—economically, militarily and ethically. The establishment of a stable, just, and efficient immigration system only supports those goals. As a Nation, we have the right and responsibility to make our borders safe, to establish clear and just rules for seeking citizenship, to control the flow of legal immigration, and to eliminate illegal immigration, which in some cases has become a threat to our national security.

(4) All parts of this Act are premised on the right and need of the United States to achieve these goals, and to protect its borders and maintain its sovereignty.

SEC. 3. REPORTS ON CURRENT BORDER SECURITY STATUS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, every 180 days thereafter until the Comptroller General of the United States reports on the results of the review described in section 4(e)(7)(B)(ii), and every 365 days after the date of such report, the Secretary of Homeland Security shall submit to the appropriate congressional committees and the Gov-
ernment Accountability Office a report that assesses and
describes the state of situational awareness and opera-
tional control. Such reports shall include an identification
of the high traffic areas and the illegal border crossing
effectiveness rate for each sector along the northern and
southern borders of the United States that are within the
responsibility of the Border Patrol.

(b) GAO REPORT.—Not later than 90 days after re-
ceiving the initial report required under subsection (a), the
Comptroller General of the United States shall report to
the appropriate congressional committees regarding the
verification of the data and methodology used to determine
high traffic areas and the illegal border crossing effective-
ness rate.

SEC. 4. BORDER SECURITY METRICS AND GOALS.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means the Committee on Homeland Secu-
rit y of the House of Representatives and the Com-
mittee on Homeland Security and Governmental Af-
fairs of the Senate.

(2) BORDER SECURITY RESULTS STRATEGY.—
The term “Border Security Results Strategy” means
the strategy established by the Secretary pursuant to section 6.

(3) COCAINE REMOVAL EFFECTIVENESS RATE.—The term "cocaine removal effectiveness rate" means the percentage that results from dividing the amount of cocaine removed by the Department of Homeland Security's maritime security components inside or outside a transit zone, as the case may be, by the total documented cocaine flow rate as contained in Federal drug databases.

(4) CONSEQUENCE DELIVERY SYSTEM.—The term "Consequence Delivery System" means the series of consequences applied to persons illegally entering the United States by the Border Patrol to prevent illegal border crossing recidivism.

(5) GOT AWAY.—The term "got away" means an illegal border crossed who, after making an illegal entry into the United States, is not turned back or apprehended.

(6) HIGH TRAFFIC AREAS.—The term "high traffic areas" means sectors along the northern and southern borders of the United States that are within the responsibility of the Border Patrol that have the most illicit cross-border activity, informed through situational awareness.
(7) ILLEGAL BORDER CROSSING EFFECTIVENESS RATE.—The term “illegal border crossing effectiveness rate” means the percentage that results from dividing the number of apprehensions and turn backs by the number of apprehensions, turn backs, and got aways. The data used by the Secretary of Homeland Security to determine such rate shall be collected and reported in a consistent and standardized manner across all Border Patrol sectors.

(8) MAJOR VIOLATOR.—The term “major violator” means a person or entity that has engaged in serious criminal activities at any land, air, or sea port of entry, including possession of illicit drugs, smuggling of prohibited products, human smuggling, weapons possession, use of fraudulent United States documents, or other offenses serious enough to result in arrest.

(9) OPERATIONAL CONTROL.—The term “operational control” means a condition in which there is a not lower than 90 percent illegal border crossing effectiveness rate, informed by situational awareness, and a significant reduction in the movement of illicit drugs and other contraband through such areas is being achieved.
(10) SITUATIONAL AWARENESS.—The term "situational awareness" means knowledge and an understanding of current illicit cross-border activity, including cross-border threats and trends concerning illicit trafficking and unlawful crossings along the international borders of the United States and in the maritime environment, and the ability to forecast future shifts in such threats and trends.

(11) TRANSIT ZONE.—The term "transit zone" means the sea corridors of the western Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the eastern Pacific Ocean through which undocumented migrants and illicit drugs transit, either directly or indirectly, to the United States.

(12) TURN BACK.—The term "turn back" means an illegal border crosser who, after making an illegal entry into the United States, returns to the country from which such crosser entered.

(b) BORDER SECURITY GOAL.—The Department's border security goal is to gain and maintain situational awareness, and operational control of high traffic areas and operational control along the southwest border of the United States.

(c) METRICS.—
(1) METRICS FOR SECURING THE BORDER BETWEEN PORTS OF ENTRY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall implement metrics, informed by situational awareness, to measure the effectiveness of security between ports of entry, which shall include, at a minimum, the following:

(A) An illegal border crossing effectiveness rate, informed by situational awareness.

(B) An illicit drugs seizure rate which measures the amount and type of illicit drugs seized by the Border Patrol in any fiscal year compared to an average of the amount and type of illicit drugs seized by the Border Patrol for the immediately preceding five fiscal years.

(C) A cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by the Border Patrol by the total documented cocaine flow rate as contained in Federal drug databases.

(D) Estimates, using alternative methodologies, including recidivism data, survey data, known-flow data, and technologically-measured data, of total attempted illegal border
crossings, total deaths and injuries resulting from such attempted illegal border crossings, the rate of apprehension of attempted illegal border crossers, and the inflow into the United States of illegal border crossers who evade apprehension.

(E) Estimates of the impact of the Border Patrol's Consequence Delivery System on the rate of recidivism of illegal border crossers.

(2) METRICS FOR SECURING THE BORDER AT PORTS OF ENTRY.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall implement metrics, informed by situational awareness, to measure the effectiveness of security at ports of entry, which shall include, at a minimum, the following:

(i) An inadmissible border crossing rate which measures the number of known inadmissible border crossers who are apprehended, excluding those border crossers who voluntarily withdraw their applications for admission, against the total estimated number of inadmissible border crossers
U.S. Customs and Border Protection fails to apprehend.

(ii) An illicit drugs seizure rate which measures the amount and type of illicit drugs seized by U.S. Customs and Border Protection in any fiscal year compared to an average of the amount and type of illicit drugs seized by U.S. Customs and Border Protection for the immediately preceding five fiscal years.

(iii) A cocaine seizure effectiveness rate measured as a percentage that results from dividing the amount of cocaine seized by U.S. Customs and Border Protection by the total documented cocaine flow rate as contained in Federal drug databases.

(iv) Estimates, using alternative methodologies, including survey data and randomized secondary screening data, of total attempted inadmissible border crossers, the rate of apprehension of attempted inadmissible border crossers, and the inflow into the United States of inadmissible border crossers who evade apprehension.
(v) The number of infractions related
to personnel and cargo committed by
major violators who are apprehended by
U.S. Customs and Border Protection at
ports of entry, and the estimated number
of such infractions committed by major
violators who are not so apprehended.

(vi) A measurement of how border se-
curity operations affect crossing times.

(B) COVERT TESTING.—The Inspector
General of the Department of Homeland Secu-
rity shall carry out covert testing at ports of
entry and submit to the Secretary of Homeland
Security and the appropriate congressional com-
mittees a report that contains the results of
such testing. The Secretary shall use such re-
results to inform activities under this subsection.

(3) METRICS FOR SECURING THE MARITIME
BORDER.—Not later than 120 days after the date of
the enactment of this Act, the Secretary of Home-
land Security shall implement metrics, informed by
situational awareness, to measure the effectiveness
of security in the maritime environment, which shall
include, at a minimum, the following:
(A) An estimate of the total number of undocumented migrants the Department of Homeland Security’s maritime security components fail to interdict.

(B) An undocumented migrant interdiction rate which measures the number of undocumented migrants interdicted against the total estimated number of undocumented migrants the Department of Homeland Security’s maritime security components fail to interdict.

(C) An illicit drugs removal rate which measures the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone in any fiscal year compared to an average of the amount and type of illicit drugs removed by the Department of Homeland Security’s maritime security components inside a transit zone for the immediately preceding five fiscal years.

(D) An illicit drugs removal rate which measures the amount of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone in any fiscal year compared to an average of
the amount of illicit drugs removed by the Department of Homeland Security’s maritime security components outside a transit zone for the immediately preceding five fiscal years.

(E) A cocaine removal effectiveness rate inside a transit zone.

(F) A cocaine removal effectiveness rate outside a transit zone.

(G) A response rate which measures the Department of Homeland Security’s ability to respond to and resolve known maritime threats, both inside and outside a transit zone, by placing assets on-scene, compared to the total number of events with respect to which the Department has known threat information.

(4) COLLABORATION.—The Secretary of Homeland Security shall collaborate with the head of a national laboratory within the Department of Homeland Security laboratory network with prior expertise in border security and the head of a border security university-based center within the Department of Homeland Security centers of excellence network to develop the metrics required under paragraphs (1), (2), and (3) to ensure the suitability and statistical validity of each such metric. Such collaboration
shall also include consultation by the Secretary with
the Governors of every border State and representa-
tives of the Border Patrol and U.S. Customs and
Border Protection.

(5) RECOMMENDATIONS RELATING TO CERTAIN
OTHER METRICS.—In carrying out paragraph (4),
the head of the national laboratory and the head of
a border security university-based center referred to
in such subsection shall make recommendations to
the Secretary of Homeland Security for other suit-
able metrics that may be used to measure the effec-
tiveness of border security.

(6) EVALUATION BY THE GOVERNMENT AC-
COUNTABILITY OFFICE.—

(A) IN GENERAL.—The Secretary of
Homeland Security shall make available to the
Government Accountability Office the data and
methodology used to develop the metrics imple-
mented under paragraphs (1), (2), and (3).

(B) REPORT.—Not later than 270 days
after receiving the data and methodology re-
ferred to in subparagraph (A), the Comptroller
General of the United States shall submit to
the appropriate congressional committees a re-
port on the suitability and statistical validity of such data and methodology.

(7) CERTIFICATIONS AND REPORTS RELATING TO OPERATIONAL CONTROL.—

(A) BY THE SECRETARY OF HOMELAND SECURITY.—

(i) TWO YEARS.—If the Secretary of Homeland Security determines that situational awareness and operational control of high traffic areas have been achieved by the date that is not later than two years after the date of the submission of the implementation plan required under section 6(e), the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(ii) FIVE YEARS.—If the Secretary of Homeland Security determines that operational control along the southwest border of the United States has been achieved by the date that is not later than five years after the date of the submission of the implementation plan required under section 6(e), the Secretary shall submit to the ap-
appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(iii) **ANNUAL UPDATES.**—Every year beginning with the year after the Secretary of Homeland Security submits the certification under clause (ii), if the Secretary determines that operational control along the southwest border of the United States is being maintained, the Secretary shall submit to the appropriate congressional committees and the Comptroller General of the United States a certification that so attests.

(B) **BY THE COMPTROLLER GENERAL.**—

(i) **REVIEWS.**—The Comptroller General of the United States shall review the certifications of the Secretary of Homeland Security under clauses (i), (ii), and (iii) of subparagraph (A) to assess the certifications of the Secretary relating to the achievement of situational awareness, operational control, or both, as the case may be, in accordance with such clauses.
(ii) REPORTS.—Not later than 120 days after conducting the reviews described in clause (i), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the results of each such review.

(8) FAILURE TO ACHIEVE SITUATIONAL AWARENESS OR OPERATIONAL CONTROL.—If the Secretary of Homeland Security determines that situational awareness, operational control, or both, as the case may be, has not been achieved by the dates referred to in clauses (i) and (ii) of paragraph (7)(A), as the case may be, or if the Secretary determines that operational control is not being annually maintained pursuant to clause (iii) of such paragraph, the Secretary shall, not later than 60 days after such dates, submit to the appropriate congressional committees a report that describes why situational awareness or operational control, or both, as the case may be, was not achieved. Such report shall include, at a minimum, impediments incurred, potential remedies, and recommendations to achieve situational awareness, operational control, or both, as the case may be.
(9) **GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON BORDER SECURITY DUPLICATION AND COST EFFECTIVENESS.**—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report addressing areas of overlap in responsibilities within the border security functions of the Department of Homeland Security and the relative cost effectiveness of border security strategies, including deployment of additional personnel and technology, and construction of virtual and physical barriers.

**SEC. 5. SOUTHERN BORDER SECURITY COMMISSION.**

(a) **ESTABLISHMENT.**—If the Secretary certifies that the Department has not achieved the border security goal described in section 4(b) during any fiscal year beginning before the date that is 5 years after the date of the enactment of this Act, not later than 60 days after such certification, there shall be established a commission to be known as the "Southern Border Security Commission" (referred to in this section as the "Commission").

(b) **COMPOSITION.**—

(1) **IN GENERAL.**—The Commission shall be composed of—
(A) 2 members who shall be appointed by the President;

(B) 2 members who shall be appointed by the President pro tempore of the Senate, of which—

(i) 1 shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President; and

(ii) 1 shall be appointed upon the recommendation of the leader in the Senate of the other political party;

(C) 2 members who shall be appointed by the Speaker of the House of Representatives, of which—

(i) 1 shall be appointed upon the recommendation of the leader in the House of Representatives of the political party that is not the political party of the President; and

(ii) 1 shall be appointed upon the recommendation of the leader in the House of Representatives of the other political party; and
(D) 4 members, consisting of 1 member from each of the States along the Southern border, who shall be—

(i) the Governor of such State; or

(ii) appointed by the Governor of each such State.

(2) QUALIFICATION FOR APPOINTMENT.—Appointed members of the Commission shall be distinguished individuals noted for their knowledge and experience in the field of border security at the Federal, State, or local level.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 60 days after the Secretary makes a certification described in subsection (a).

(4) CHAIR.—At the first meeting of the Commission, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(5) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) RULES.—The Commission shall establish the rules and procedures of the Commission which
shall require the approval of at least 6 members of the Commission.

(c) DUTIES.—The Commission’s primary responsibility shall be to make recommendations to the President, the Secretary, and Congress on policies to achieve and maintain the border security goal specified in section 3(b) by achieving and maintaining—

(1) the capability to engage in, and engaging in, persistent surveillance in border sectors along the Southern border; and

(2) an effectiveness rate of 90 percent or higher in all border sectors along the Southern border.

(d) REPORT.—Not later than 180 days after the end of the 5-year period described in subsection (a), the Commission shall submit to the President, the Secretary, and Congress a report setting forth specific recommendations for policies for achieving and maintaining the border security goals specified in subsection (c). The report shall in clude, at a minimum, recommendations for the personnel, infrastructure, technology, and other resources required to achieve and maintain an effectiveness rate of 90 percent or higher in all border sectors.

(e) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence rates authorized for employees of
agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(f) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission such staff and administrative services as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service or status or privilege.

(g) COMPTROLLER GENERAL REVIEW.—The Comptroller General of the United States shall review the recommendations in the report submitted under subsection (d) in order to determine—

(1) whether any of the recommendations are likely to achieve effective control in all border sectors;

(2) which recommendations are most likely to achieve effective control; and

(3) whether such recommendations are feasible within existing budget constraints.
(h) **TERMINATION.**—The Commission shall terminate 30 days after the date on which the report is submitted under subsection (d).

**SEC. 6. BORDER SECURITY RESULTS STRATEGY.**

(a) **Strategy To Secure The Border.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a comprehensive strategy for gaining and maintaining situational awareness, and operational control of high traffic areas, by the date that is not later than two years after the date of the submission of the implementation plan required under subsection (c), and operational control along the southwest border of the United States by the date that is not later than five years after such date of submission.

(b) **Contents Of Strategy.**—The strategy required under subsection (a) shall include, at a minimum, a consideration of the following:

1. An assessment of principal border security threats, including threats relating to the smuggling and trafficking of humans, weapons, and illicit drugs.
2. Efforts to analyze and disseminate border security and border threat information between Department of Homeland Security border security com-
ponents and with other appropriate Federal depart-
mments and agencies with missions associated with
the border.

(3) Efforts to increase situational awareness, in
accordance with privacy, civil liberties, and civil
rights protections, including—

(A) surveillance capabilities developed or
utilized by the Department of Defense, includ-
ing any technology determined to be excess by
the Department of Defense; and

(B) use of manned aircraft and unmanned
aerial systems, including camera and sensor
technology deployed on such assets.

(4) Efforts to detect and prevent terrorists and
instruments of terrorism from entering the United
States.

(5) Efforts to ensure that any new border secu-
rity technology can be operationally integrated with
existing technologies in use by the Department of
Homeland Security.

(6) An assessment of existing efforts and tech-
ologies used for border security and the effect of
the use of such efforts and technologies on civil
rights, private property rights, privacy rights, and
civil liberties.
(7) Technology required to maintain, support, and enhance security and facilitate trade at ports of entry, including nonintrusive detection equipment, radiation detection equipment, biometric technology, surveillance systems, and other sensors and technology that the Secretary of Homeland Security determines necessary.


(9) Lessons learned from Operation Jumpstart and Operation Phalanx.

(10) Cooperative agreements and information sharing with State, local, tribal, territorial, and other Federal law enforcement agencies that have jurisdiction on the northern or southern borders, or in the maritime environment.

(11) Border security information received from consultation with State, local, tribal, and Federal law enforcement agencies that have jurisdiction on the northern or southern border, or in the maritime environment, and from border community stakeholders (including through public meetings with such stakeholders), including representatives from border agricultural and ranching organizations and rep-
resentatives from business and civic organizations along the northern or southern border.

(12) Agreements with foreign governments that support the border security efforts of the United States, including coordinated installation of standardized land border inspection technology, such as license plate readers and RFID readers.

(13) Staffing requirements for all border security functions.

(14) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(15) An assessment of training programs, including training programs regarding—

(A) identifying and detecting fraudulent documents;

(B) protecting the civil, constitutional, human, and privacy rights of individuals;

(C) understanding the scope of enforcement authorities and the use of force policies;

(D) screening, identifying, and addressing vulnerable populations, such as children and victims of human trafficking; and
(E) social and cultural sensitivity toward
border communities.

(16) Local crime indices of municipalities and
counties along the Southern border.

(17) An assessment of how border security op-
erations affect crossing times.

(18) Metrics required under paragraphs (1),
(2), and (3) of section 4(e).

(c) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 90 days after
the submission of the strategy required under sub-
section (a), the Secretary of Homeland Security
shall submit to the appropriate congressional com-
mittees and the Government Accountability Office
an implementation plan for each of the Department
of Homeland Security border security components to
carry out such strategy. Such implementation plan
shall, at a minimum—

(A) specify what protections will be put in
place to ensure that staffing and resources nec-
essary for the maintenance of operations at
ports of entry are not diverted to the detriment
of such operations in favor of operations be-
tween ports of entry;

(B) include—
(i) an integrated master schedule and
cost estimate, including lifecycle costs, for
the activities contained in such implementa-
tion plan; and

(ii) a comprehensive border security
technology plan to improve surveillance ca-
pabilities that includes—

(I) a documented justification
and rationale for technology choices;

(II) deployment locations;

(III) fixed versus mobile assets;

(IV) a timetable for procurement
and deployment;

(V) estimates of operation and
maintenance costs;

(VI) an identification of any im-
pediments to the deployment of such
technologies; and

(VII) estimates of the relative
cost effectiveness of various border se-
curity strategies and operations, in-
cluding deployment of personnel and
technology, and construction of new
physical and virtual barriers; and
(C) require consultation with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near implementation sites.

(2) GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—Not later than 90 days after receiving the implementation plan in accordance with paragraph (1), the Comptroller General of the United States shall submit to the appropriate congressional committees a report on such plan.

(3) SAVINGS PROVISION.—Nothing in paragraph (1) may be construed to—

(A) create or negate any right of action for a State or local government or other person or entity affected by that paragraph; or

(B) affect the eminent domain laws of the United States or of any State.

(4) LIMITATION ON REQUIREMENTS.—Notwithstanding paragraph (1)(B)(ii)(VII) of this subsection, nothing in this subsection shall require the Secretary to install fencing, or infrastructure that directly results from the installation of such fencing,
in a particular location along the Southern border,
if the Secretary determines that the use or place-
ment of such resources is not the most appropriate
means to achieve and maintain effective control over
the Southern border at such location.

(d) PERIODIC UPDATES.—Not later than 180 days
after the submission of each Quadrennial Homeland Secu-
rity Review required under section 707 of the Homeland
Security Act of 2002 (6 U.S.C. 347) beginning with the
first such Review that is due after the implementation
plan is submitted under subsection (c), the Secretary of
Homeland Security shall submit to the appropriate con-
gressional committees an updated—

(1) strategy under subsection (a); and

(2) implementation plan under subsection (e).

(e) REPORTS.—Not later than 60 days after the date
of the enactment of this Act and annually thereafter, the
Secretary of Homeland Security shall submit to the appro-
priate congressional committees a report on the following:

(1) A resource allocation model for current and
future year staffing requirements that includes opti-
mal staffing levels at all land, air, and sea ports of
entry, and an explanation of U.S. Customs and Bor-
der Protection methodology for aligning staffing lev-
els and workload to threats and vulnerabilities and
their effects on cross border trade and passenger
travel across all mission areas.

(2) Detailed information on the level of man-
power available at all land, air, and sea ports of
entry and between ports of entry, including the num-
ber of canine and agricultural specialists assigned to
each such port of entry.

(3) Detailed information that describes the dif-
ference between the staffing the model suggests and
the actual staffing at each port of entry and between
the ports of entry.

(4) Detailed information that examines both the
security impacts and competitive impacts of entering
into a reimbursement agreement with foreign gov-
ernments for U.S. Customs and Border Protection
preclearance facilities.

(f) DEFINITIONS.—The terms in this section have the
meanings given those terms in section 4.

SEC. 7. US-VISIT IMPLEMENTATION.

Not later than 180 days after the date of the enact-
ment of this Act, the Secretary of Homeland Security shall
submit to the appropriate congressional committees a plan
to implement immediately a biometric exit capability at
ports of entry under the US-VISIT program, in accord-
ance with the Enhanced Security and Visa Entry Reform
Act of 2002 (Public Law 107–173). If the Secretary determines that development of such a system is not feasible, the Secretary shall, not later than 180 days after the date of the enactment of this Act, submit to the appropriate congressional committees a plan to implement, not later than two years after such date of enactment, an alternative program to provide the same level of security.

SEC. 8. ALTERNATE MODEL FOR BORDER SECURITY STRATEGY DEVELOPMENT.

(a) EFFECTIVE DATE TRIGGERS.—

(1) DEFINITIONS.—In this section:

(A) COMMISSION.—The term “Commission” means the Southern Border Security Commission established pursuant to section 5.

(B) COMPREHENSIVE SOUTHERN BORDER SECURITY STRATEGY.—The term “Comprehensive Southern Border Security Strategy” means the strategy established by the Secretary pursuant to subsection (b)(1) to achieve and maintain an effectiveness rate of 90 percent or higher in all border sectors.

(C) EFFECTIVE CONTROL.—The term “effective control” means the ability to achieve and maintain, in a Border Patrol sector—

(i) persistent surveillance; and
(ii) an effectiveness rate of 90 percent or higher.

(D) EFFECTIVENESS RATE.—The term "effectiveness rate", in the case of a border sector, is the percentage calculated by dividing the number of apprehensions and turn backs in the sector during a fiscal year by the total number of illegal entries in the sector during such fiscal year.

(E) SOUTHERN BORDER.—The term "Southern border" means the international border between the United States and Mexico.

(F) SOUTHERN BORDER FENCING STRATEGY.—The term "Southern Border Fencing Strategy" means the strategy established by the Secretary pursuant to subsection (b)(2) that identifies where fencing (including double-layer fencing), infrastructure, and technology, including at ports of entry, should be deployed along the Southern border.

(2) BORDER SECURITY GOAL.—The Department's border security goal is to achieve and maintain effective control in all border sectors along the Southern border.

(3) TRIGGERS.—
(A) Processing of Applications for Registered Provisional Immigrant Status.—Not earlier than the date upon which the Secretary has submitted to Congress the Notice of Commencement of implementation of the Comprehensive Southern Border Security Strategy and the Southern Border Fencing Strategy under section 5 of this Act, the Secretary may commence processing applications for registered provisional immigrant status pursuant to section 245B of the Immigration and Nationality Act, as added by section 2101 of this Act.

(B) Adjustment of Status of Registered Provisional Immigrants.—

(i) In general.—Except as provided in clause (ii), the Secretary may not adjust the status of aliens who have been granted registered provisional immigrant status, except for aliens granted blue card status under section 2201 of this Act or described in section 245D(b) of the Immigration and Nationality Act, until the Secretary, after consultation with the Comptroller General of the United States, submits to the Presi-
dent and Congress a written certification that—

(I) the Comprehensive Southern Border Security Strategy has been submitted to Congress and is substantially deployed and substantially operational;

(II) the Southern Border Fencing Strategy has been submitted to Congress, implemented, and is substantially completed;

(III) the Secretary has implemented the mandatory employment verification system required by section 274A of the Immigration and Nationality Act (8 U.S.C.1324a), as amended by section 3101, for use by all employers to prevent unauthorized workers from obtaining employment in the United States; and

(IV) the Secretary is using an electronic exit system at air and sea ports of entry that operates by collecting machine readable visa or pass-
port information from air and vessel carriers.

(ii) EXCEPTION.—The Secretary shall permit registered provisional immigrants to apply for an adjustment to lawful permanent resident status if—

(I)(aa) litigation or a force majeure has prevented 1 or more of the conditions described in subclauses (I) through (IV) of clause (i) from being implemented; or

(bb) the implementation of clause (i) has been held unconstitutional by the Supreme Court of the United States or the Supreme Court has granted certiorari to the litigation on the constitutionality of implementation of clause (i); and

(II) 10 years have elapsed since the date of the enactment of this Act.

(4) WAIVER OF LEGAL REQUIREMENTS NECESSARY FOR IMPROVEMENT AT BORDERS.—Notwithstanding any other provision of law, the Secretary is authorized to waive all legal requirements that the Secretary determines to be necessary to ensure expe-
ditions construction of the barriers, roads, or other physical tactical infrastructure needed to fulfill the requirements under this section. Any determination by the Secretary under this section shall be effective upon publication in the Federal Register of a notice that specifies each law that is being waived and the Secretary's explanation for the determination to waive that law. The waiver shall expire on the later of the date on which the Secretary submits the written certification that the Southern Border Fencing Strategy is substantially completed as specified in paragraph (3)(B)(i)(II) or the date that the Secretary submits the written certification that the Comprehensive Southern Border Security Strategy is substantially deployed and substantially operational as specified in paragraph (3)(B)(i)(I).

(5) FEDERAL COURT REVIEW.—

(A) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction to hear all causes or claims arising from any action undertaken, or any decision made, by the Secretary under paragraph (4). A cause of action or claim may only be brought alleging a violation of the Constitution of the United States. The court does not have jurisdiction to
hear any claim not specified in this subparagraph.

(B) **Time for filing complaint.**—If a cause or claim under subparagraph (A) is not filed within 60 days after the date of the contested action or decision by the Secretary, the claim shall be barred.

(C) **Appellate review.**—An interlocutory or final judgment, decree, or order of the district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

(b) **Comprehensive Southern Border Security Strategy and Southern Border Fencing Strategy.**—

(1) **Comprehensive southern border security strategy.**—

(A) **In general.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a strategy, to be known as the “Comprehensive Southern Border Security Strategy”, for achieving and maintaining effective control between the ports of entry in all border sectors along the Southern border,
(i) the Committee on Homeland Security and Governmental Affairs of the Senate;

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

(iii) the Committee on Appropriations of the Senate;

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

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

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

(vii) the Comptroller General of the United States.

(B) ELEMENTS.—The Comprehensive Southern Border Security Strategy shall specify—

(i) the priorities that must be met for the strategy to be successfully executed;

(ii) the capabilities that must be obtained to meet each of the priorities referred to in clause (i), including—

(I) surveillance and detection capabilities developed or used by the De-
partment of Defense to increase situational awareness; and

(II) the requirement for stationing sufficient Border Patrol agents and Customs and Border Protection officers between and at ports of entry along the Southern border;

and

(iii) the resources, including personnel, infrastructure, and technology that must be procured and successfully deployed to obtain the capabilities referred to in clause (ii), including—

(I) fixed, mobile, and agent portable surveillance systems; and

(II) unarmed, unmanned aerial systems and unarmed, fixed-wing aircraft and necessary and qualified staff and equipment to fully utilize such systems.

(C) ADDITIONAL ELEMENTS REGARDING EXECUTION.—The Comprehensive Southern Border Security Strategy shall describe—

(i) how the resources referred to in subparagraph (B)(iii) will be properly
aligned with the priorities referred to in
subparagraph (B)(i) to ensure that the
strategy will be successfully executed;

(ii) the interim goals that must be ac-
complished to successfully implement the
strategy; and

(iii) the schedule and supporting mile-
stones under which the Department will
accomplish the interim goals referred to in
clause (ii).

(D) IMPLEMENTATION.—

(i) IN GENERAL.—The Secretary shall
commence the implementation of the Com-
prehensive Southern Border Security
Strategy immediately after submitting the
strategy under subparagraph (A).

(ii) NOTICE OF COMENCEMENT.—
Upon commencing the implementation of
the strategy, the Secretary shall submit a
notice of commencement of such implemen-
tation to—

(I) Congress; and

(II) the Comptroller General of
the United States.

(E) SEMIANNUAL REPORTS.—
(i) **IN GENERAL.**—Not later than 180 days after the Comprehensive Southern Border Security Strategy is submitted under subparagraph (A), and every 180 days thereafter, the Secretary shall submit a report on the status of the Department's implementation of the strategy to—

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

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

(III) the Committee on Appropriations of the Senate;

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

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

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

(VII) the Comptroller General of the United States.
(ii) ELEMENTS.—Each report submitted under clause (i) shall include—

(I) a detailed description of the steps the Department has taken, or plans to take, to execute the strategy submitted under subparagraph (A), including the progress made toward achieving the interim goals and milestone schedule established pursuant to clauses (ii) and (iii) of subparagraph (C);

(II) a detailed description of—

(aa) any impediments identified in the Department’s efforts to execute the strategy;

(bb) the actions the Department has taken, or plans to take, to address such impediments; and

(cc) any additional measures developed by the Department to measure the state of security along the Southern border; and

(III) for each Border Patrol sector along the Southern border—
(aa) the effectiveness rate for each individual Border Patrol sector and the aggregated effectiveness rate;

(bb) the number of recidivist apprehensions, sorted by Border Patrol sector; and

(cc) the recidivism rate for all unique subjects that received.

(iii) Annual review.—The Comptroller General of the United States shall conduct an annual review of the information contained in the semianual reports submitted by the Secretary under this paragraph and submit an assessment of the status and progress of the Southern Border Security Strategy to the committees set forth in clause (i).

(2) Southern Border Fencing Strategy.—

(A) Establishment.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a strategy, to be known as the “Southern Border Fencing Strategy”, to identify where fencing (including double-layer fencing), infrastructure, and tech-
nology, including at ports of entry, should be deployed along the Southern border.

(B) SUBMISSION.—The Secretary shall submit the Southern Border Fencing Strategy to Congress and the Comptroller General of the United States for review.

(C) NOTICE OF COMMENCEMENT.—Upon commencing the implementation of the Southern Border Fencing Strategy, the Secretary shall submit a notice of commencement of the implementation of the Strategy to Congress and the Comptroller General of the United States.

(D) CONSULTATION.—

(i) IN GENERAL.—In implementing the Southern Border Fencing Strategy required by this paragraph, the Secretary shall consult with the Secretary of the Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.
(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

(I) create or negate any right of action for a State or local government or other person or entity affected by this subsection; or

(II) affect the eminent domain laws of the United States or of any State.

(E) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this subsection shall require the Secretary to install fencing, or infrastructure that directly results from the installation of such fencing, in a particular location along the Southern border, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain effective control over the Southern border at such location.

SEC. 9. COMPREHENSIVE IMMIGRATION REFORM FUNDS.

(a) COMPREHENSIVE IMMIGRATION REFORM TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account, to be known as the
Comprehensive Immigration Reform Trust Fund
(referred to in this section as the "Trust Fund"),
consisting of—

(A) amounts transferred from the general
fund of the Treasury under paragraph (2)(A);
and

(B) proceeds from the fees described in
paragraph (2)(B).

(2) DEPOSITS.—

(A) INITIAL FUNDING.—On the later of
the date of the enactment of this Act or Octo-
ber 1, 2013, $8,300,000,000 shall be trans-
ferred from the general fund of the Treasury to
the Trust Fund.

(B) ONGOING FUNDING.—Notwithstanding
section 3302 of title 31, United States Code, in
addition to the funding described in subpara-
graph (A), and subject to paragraphs (3)(B)
and (4), the following amounts shall be deposit-
ed in the Trust Fund:

(i) ELECTRONIC TRAVEL AUTHORIZA-
TION SYSTEM FEES.—Fees collected under
section 217(h)(3)(B)(i)(II) of the Immigra-
tion and Nationality Act, as added by sec-
tion 1102(e).
(ii) Registered provisional immigrant penalties.—Penalties collected under section 245B(c)(10)(C) of the Immigration and Nationality Act, as added by section 2101.

(iii) Blue card penalty.—Penalties collected under section 2211(b)(9)(C).

(iv) Fine for adjustment from blue card status.—Fines collected under section 245F(a)(5) of the Immigration and Nationality Act, as added by section 2212(a).

(v) Penalties for false statements in applications.—Fines collected under section 245F(f) of the Immigration and Nationality Act, as added by section 2212(a).

(vi) Merit system green card fees.—Fees collected under section 203(c)(6) of the Immigration and Nationality Act, as amended by section 2301(a)(2).

(vii) H-1B and L visa fees.—Fees collected under section 281(d) of the Immig-
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gration and Nationality Act, as added by
section 4105.

(viii) H–1B OUTPLACEMENT FEE.—
Fees collected under section
212(n)(1)(F)(ii) of the Immigration and
Nationality Act, as amended by section
4211(d).

(ix) H–1B NONIMMIGRANT DEPEND-
ENT EMPLOYER FEES.—Fees collected
under section 4233(a)(2).

(x) L NONIMMIGRANT DEPENDENT
EMPLOYER FEES.—Fees collected under
section 4305(a)(2).

(xi) J–1 VISA MITIGATION FEES.—
Fees collected under section 281(e) of the
Immigration and Nationality Act, as added
by section 4407.

(xii) F–1 VISA FEES.—Fees collected
under section 281(f) of the Immigration
and Nationality Act, as added by section
4408.

(xiii) RETIREE VISA FEES.—Fees col-
lected under section 214(w)(1)(B) of the
Immigration and Nationality Act, as added
by section 4504(b).
(xiv) Visitor visa fees.—Fees collected under section 281(g) of the Immigration and Nationality Act, as added by section 4509.

(xv) H–2B visa fees.—Fees collected under section 214(x)(5)(A) of the Immigration and Nationality Act, as added by section 4602(a).

(xvi) Nonimmigrants performing maintenance on common carriers.—Fees collected under section 214(z) of the Immigration and Nationality Act, as added by section 4604.

(xvii) X–1 visa fees.—Fees collected under section 214(s)(6) of the Immigration and Nationality Act, as added by section 4801.

(xviii) Penalty for adjustment from registered provisional immigrant status.—Penalties collected under section 245C(e)(5)(B) of the Immigration and Nationality Act, as added by section 2102.

(C) Authority to adjust fees.—As necessary to carry out the purposes of this Act,
the Secretary may adjust the amounts of the fees and penalties set out under subparagraph (B), except for the fines and penalties referred to in clauses (ii), (iii), (iv), or (xviii) of such subparagraph.

(3) USE OF FUNDS.—

(A) INITIAL FUNDING.—Of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)—

(i) $3,000,000,000 shall remain available for the 5-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to carry out the Border Security Results Strategy;

(ii) $2,000,000,000 shall remain available for the 10-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary to carry out programs, projects, and activities recommended by the Commission pursuant to section 5(d) to achieve and maintain the border security goal specified in section 4(b);

(iii) $1,500,000,000 shall be made available to the Secretary, during the 5-
year period beginning on the date of the
enactment of this Act, to procure and de-
ploy fencing, infrastructure, personnel, and
technology in accordance with the Border
Security Results Strategy established pur-
suant to section 6, not less than
$1,000,000,000 of which shall be used for
fencing, infrastructure, personnel, and
technology at ports of entry in accordance
with section 6(e)(1)(A);

(iv) $750,000,000 shall remain avail-
able for the 6-year period beginning on the
date specified in paragraph (2)(A) for use
by the Secretary to expand and implement
the mandatory employment verification
system, which shall be used as required by
section 274A of the Immigration and Na-
tionality Act (8 U.S.C. 1324a), as amend-
ed by section 3101;

(v) $900,000,000 shall remain avail-
able for the 8-year period beginning on the
date specified in paragraph (2)(A) for use
by the Secretary of State to pay for one-
time and startup costs necessary to imple-
ment this Act; and
(vi) $150,000,000 shall remain available for the 2-year period beginning on the date specified in paragraph (2)(A) for use by the Secretary for transfer to the Secretary of Labor, the Secretary of Agriculture, or the Attorney General, for initial costs of implementing this Act.

(B) Repayment of trust fund expenses.—The first $8,300,000,000 collected pursuant to the fees, penalties, and fines referred to in clauses (ii), (iii), (iv), (vi), (xiv), (xvii), and (xviii) of paragraph (2)(B) shall be collected, deposited in the general fund of the Treasury, and used for Federal budget deficit reduction. Collections in excess of $8,300,000,000 shall be deposited into the Trust Fund, as specified in paragraph (2)(B).

(C) Program implementation.—Amounts deposited into the Trust Fund pursuant to paragraph (2)(B) shall be available during each of fiscal years 2014 through 2018 as follows:

(i) $50,000,000 to carry out the activities referenced in section 1104(a)(1).
(ii) $50,000,000 to carry out the activities referenced in section 1104(b).

(D) ONGOING FUNDING.—Subject to the availability of appropriations, amounts deposited in the Trust Fund pursuant to paragraph (2)(B) are authorized to be appropriated as follows:

(i) Such sums as may be necessary to carry out the authorizations included in this Act.

(ii) Such sums as may be necessary to carry out the operations and maintenance of border security and immigration enforcement investments referenced in sub-paragraph (A).

(E) EXPENDITURE PLAN.—The Secretary, in consultation with the Attorney General and the Secretary of Defense, shall submit to the Committee on Appropriations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on the Judiciary of the House of Representatives, in conjunction with the Border Security Results
Strategy, a plan for expenditure that describes—

(i) the types and planned deployment of fixed, mobile, video, and agent and officer portable surveillance and detection equipment, including those recommended or provided by the Department of Defense;

(ii) the number of Border Patrol agents and Customs and Border Protection officers to be hired, including a detailed description of which Border Patrol sectors and which land border ports of entry they will be stationed;

(iii) the numbers and type of unarmed, unmanned aerial systems and unarmed, fixed-wing and rotary aircraft, including pilots, air interdiction agents, and support staff to fly or otherwise operate and maintain the equipment;

(iv) the numbers, types, and planned deployment of marine and riverine vessels, if any, including marine interdiction agents and support staff to operate and maintain the vessels;
(v) the locations, amount, and planned deployment of fencing, including double layer fencing, tactical and other infrastructure, and technology, including but not limited to fixed towers, sensors, cameras, and other detection technology;

(vi) the numbers, types, and planned deployment of ground-based mobile surveillance systems;

(vii) the numbers, types, and planned deployment of tactical and other interoperable law enforcement communications systems and equipment;

(viii) required construction, including repairs, expansion, and maintenance, and location of additional checkpoints, Border Patrol stations, and forward operating bases;

(ix) the number of additional attorneys and support staff for the Office of the United States Attorney for Tucson;

(x) the number of additional support staff and interpreters in the Office of the Clerk of the Court for Tucson;
(xi) the number of additional personnel, including Marshals and Deputy Marshals for the United States Marshals Office for Tucson;

(xii) the number of additional magistrate judges for the southern border United States District Courts;

(xiii) activities to be funded by the Homeland Security Border Oversight Task Force;

(xiv) amounts and types of grants to States and other entities;

(xv) amounts and activities necessary to hire additional personnel and for start-up costs related to upgrading software and information technology necessary to transition from a voluntary E-Verify system to mandatory employment verification system under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) within 5 years;

(xvi) the number of additional personnel and other costs associated with implementing the immigration courts and re-
moval proceedings mandated in subtitle E
of title III;

(xvii) the steps the Commissioner of
Social Security plans to take to create a
fraud-resistant, tamper-resistant, wear-re-
sistant, and identity-theft resistant Social
Security card, including—

(I) the types of equipment needed
to create the card;

(II) the total estimated costs for
completion that clearly delineates
costs associated with the acquisition
of equipment and transition to opera-
tion, subdivided by fiscal year and
including a description of the purpose
by fiscal year for design, pre-acquisi-
tion activities, production, and transi-
tion to operation;

(III) the number and type of per-
sonnel, including contract personnel,
required to research, design, test, and
produce the card; and

(IV) a detailed schedule for pro-
duction of the card, including an esti-
imated completion date at the pro-
jeeted funding level provided in this
Act; and
(xviii) the operations and maintenance
costs associated with the implementation of
clauses (i) through (xvii).

(F) ANNUAL REVISION.—The expenditure
plan required in (E) shall be revised and sub-
mitted with the President’s budget proposals
for fiscal year 2016, 2017, 2018, and 2019
pursuant to the requirements of section 1105(a)
of title 31, United States Code.

(G) COMMISSION EXPENDITURE PLAN.—

(i) REQUIREMENT FOR PLAN.—South-
ern Border Security Commission re-
terence in section 5 is established, the Sec-
retary shall submit to the appropriate com-
mittees of Congress, not later than 60 days
after the submission of the review required
by section 5(g), a plan for expenditure that
achieves the recommendations in the report
required by section 5(d) and the review re-
quired by section 5(g).

(ii) APPROPRIATE COMMITTEES OF
CONGRESS DEFINED.—clause (i), the term
“appropriate committees of Congress” means—

(I) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Finance of the Senate; and

(II) the Committee on Appropriations, the Committee on the Judiciary, and the Committee on Ways and Means of the House of Representatives.

(4) LIMITATION ON COLLECTION.—

(A) IN GENERAL.—No fee deposited in the Trust Fund may be collected except to the extent that the expenditure of the fee is provided for in advance in an appropriations Act only to pay the costs of activities and services for which appropriations are authorized to be funded from the Trust Fund.

(B) RECEIPTS COLLECTED AS OFFSETTING RECEIPTS.—Until the date of the enactment of an Act making appropriations for the activities authorized under this Act through September 30, 2014, the fees authorized by paragraph (2)(B) that are not deposited into the general
fund pursuant to paragraph (3)(B) may be collected and shall be credited as to the Trust Fund to remain available until expended only to pay the costs of activities and services for which appropriations are authorized to be funded from the Trust Fund.

(b) COMPREHENSIVE IMMIGRATION REFORM START-UP ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account, to be known as the “Comprehensive Immigration Reform Startup Account,” (referred to in this section as the “Startup Account”), consisting of amounts transferred from the general fund of the Treasury under paragraph (2).

(2) DEPOSITS.—There is appropriated to the Startup Account, out of any funds in the Treasury not otherwise appropriated, $3,000,000,000, to remain available until expended on the later of the date that is—

(A) the date of the enactment of this Act;

or

(B) October 1, 2013.

(3) REPAYMENT OF STARTUP COSTS.—
(C) the types and amounts of grants to community and faith-based organizations; and

(D) the anti-fraud programs and actions related to implementation of this Act.

(c) ANNUAL AUDITS.—

(1) AUDITS REQUIRED.—Not later than October 1 each year beginning on or after the date of the enactment of this Act, the Chief Financial Officer of the Department of Homeland Security shall, in conjunction with the Inspector General of the Department of Homeland Security, conduct an audit of the Trust Fund.

(2) REPORTS.—Upon completion of each audit of the Trust Fund under paragraph (1), the Chief Financial Officer shall, in conjunction with the Inspector General, submit to Congress, and make available to the public on an Internet website of the Department available to the public, a jointly audited financial statement concerning the Trust Fund.

(3) ELEMENTS.—Each audited financial statement under paragraph (2) shall include the following:

(A) The report of an independent certified public accountant.
(B) A balance sheet reporting admitted assets, liabilities, capital and surplus.

(C) A statement of cash flow.

(D) Such other information on the Trust Fund as the Chief Financial Officer, the Inspector General, or the independent certified public accountant considers appropriate to facilitate a comprehensive understanding of the Trust Fund during the year covered by the financial statement.

(d) Determination of Budgetary Effects.—

(1) Emergency designation for congressional enforcement.—In the Senate, amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(2) Emergency designation for statutory paygo.—Amounts appropriated by or deposited in the general fund of the Treasury pursuant to this section are designated as an emergency requirement under section 4(g) of the Statutory Pay-As-You-Go
Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

SEC. 10. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 11. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term “Department” means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term “Secretary” means the Secretary of Homeland Security.

SEC. 12. GRANT ACCOUNTABILITY.

(a) DEFINITIONS.—In this section:

(1) AWARDING ENTITIES.—The term “awarding entities” means the Secretary of Homeland Security, the Director of the Federal Emergency Management Agency (FEMA), the Chief of the Office of Citizenship and New Americans, as designated by this Act,
and the Director of the National Science Foundation.

(2) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an organization that is described in section 501(e)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code.

(3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding in a final audit report conducted by the Inspector General of the Department of Homeland Security, or the Inspector General for the National Science Foundation for grants awarded by the Director of the National Science Foundation, that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 1 year from the date when the final audit report is issued.

(b) ACCOUNTABILITY.—All grants awarded by awarding entities pursuant to this Act shall be subject to the following accountability provisions:

(1) AUDIT REQUIREMENT.—

(A) AUDITS.—Beginning in the first fiscal year beginning after the date of the enactment of this section, and in each fiscal year there-
after, the Inspector General of the Department
of Homeland Security, or the Inspector General
for the National Science Foundation for grants
awarded by the Director of the National
Science Foundation, shall conduct audits of re-
cipients of grants under this Act to prevent
waste, fraud, and abuse of funds by grantees.
The Inspector Generals shall determine the ap-
propriate number of grantees to be audited
each year.

(B) MANDATORY EXCLUSION.—A recipient
of grant funds under this Act that is found to
have an unresolved audit finding shall not be el-
igible to receive grant funds under this Act dur-
ing the first 2 fiscal years beginning after the
end of the 1-year period described in subsection
(a)(3).

(C) PRIORITY.—In awarding grants under
this Act, the awarding entities shall give pri-
ority to eligible applicants that did not have an
unresolved audit finding during the 3 fiscal
years before submitting an application for a
grant under this Act.

(D) REIMBURSEMENT.—If an entity is
awarded grant funds under this Act during the
2-fiscal-year period during which the entity is
barred from receiving grants under subpara-
graph (B), the awarding entity shall—

(i) deposit an amount equal to the
amount of the grant funds that were im-
properly awarded to the grantee into the
General Fund of the Treasury; and

(ii) seek to recoup the costs of the re-
payment to the fund from the grant recipi-
ent that was erroneously awarded grant
funds.

(2) NONPROFIT ORGANIZATION REQUIRE-
MENTS.—

(A) PROHIBITION.—An awarding entity
may not award a grant under this Act to a non-
profit organization that holds money in offshore
accounts for the purpose of avoiding paying the
tax described in section 511(a) of the Internal

(B) DISCLOSURE.—Each nonprofit organi-
zation that is awarded a grant under this Act
and uses the procedures prescribed in regula-
tions to create a rebuttable presumption of rea-
sonableness for the compensation of its officers,
directors, trustees, and key employees, shall dis-
close to the awarding entity, in the application
for the grant, the process for determining such
compensation, including the independent per-
sons involved in reviewing and approving such
compensation, the comparability data used, and
contemporaneous substantiation of the deliber-
tion and decision. Upon request, the awarding
entity shall make the information disclosed
under this subparagraph available for public in-
spection.

(3) CONFERENCE EXPENDITURES.—

(A) LIMITATION.—No amounts authorized
to be appropriated to the Department of Hom-
eland Security or the National Science Founda-
tion for grant programs under this Act may be
used by an awarding entity or by any individual
or entity awarded discretionary funds through a
cooperative agreement under this Act to host or
support any expenditure for conferences that
uses more than $20,000 in funds made avail-
able by the Department of Homeland Security
or the National Science Foundation unless the
Deputy Secretary for Homeland Security, or
the Deputy Director of the National Science
Foundation, or their designee, provides prior
written authorization that the funds may be expended to host the conference.

(B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director of the National Science Foundation shall submit an annual report to Congress on all conference expenditures approved under this paragraph.

(4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date of the enactment of this subsection, each awarding entity shall submit to Congress a report—

(A) indicating whether—

(i) all audits issued by the Offices of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate individuals;

(ii) all mandatory exclusions required under paragraph (1)(B) have been issued; and
(A) In general.—Notwithstanding section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), 50 percent of fees collected under section 245B(e)(10)(A) of the Immigration and Nationality Act, as added by section 2101 of this Act, shall be deposited monthly in the general fund of the Treasury and used for Federal budget deficit reduction until the funding provided by paragraph (2) has been repaid.

(B) Deposit in the Immigration Examinations Fee Account.—Fees collected in excess of the amount referenced in subparagraph (A) shall be deposited in the Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)).

(4) Use of funds.—The Secretary shall use the amounts transferred to the Startup Account to pay for one-time and startup costs necessary to implement this Act, including—
(A) equipment, information technology systems, infrastructure, and human resources;

(B) outreach to the public, including development and promulgation of any regulations, rules, or other public notice;

(C) grants to community and faith-based organizations; and

(D) anti-fraud programs and actions related to implementation of this Act.

(5) EXPENDITURE PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General and the Secretary of Defense, shall submit to the Committee on Appropriations and the Committee on the Judiciary of the Senate and the Committee on Appropriations and the Committee on the Judiciary of the House of Representatives, a plan for expenditure of the one-time and startup funds in the Start-up Account that provides details on—

(A) the types of equipment, information technology systems, infrastructure, and human resources;

(B) the plans for outreach to the public, including development and promulgation of any regulations, rules, or other public notice;