115TH CONGRESS
1ST SESSION

S. _____

To authorize appropriations for border infrastructure construction, to provide conditional resident status to certain aliens, and to amend the Immigration and Nationality Act to include grounds of inadmissibility and deportability for alien members of criminal gangs and cartels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To authorize appropriations for border infrastructure construction, to provide conditional resident status to certain aliens, and to amend the Immigration and Nationality Act to include grounds of inadmissibility and deportability for alien members of criminal gangs and cartels, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Security and Deferred Action Recipient Relief Act".

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term "Secretary" means the Secretary of Homeland Security.

SEC. 3. BORDER INFRASTRUCTURE CONSTRUCTION.

(a) BORDER SECURITY TRUST FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the "Border Security Trust Fund" (referred to in this section as the "Trust Fund"), consisting of the amounts transferred from the general fund of the Treasury under paragraph (2).

(2) DEPOSITS.—Not later than the date that is the later of the date of enactment of this Act and September 30, 2020, the Secretary of the Treasury shall deposit in the Trust Fund, from the general fund of the Treasury, $1,571,239,000, to remain available until expended.

(3) REPAYMENT OF COSTS.—

(A) IN GENERAL.—The Secretary of the Treasury shall use any Federal tax liability collected by the Secretary of the Treasury under section 244A(d)(6) of the Immigration and Nationality Act to recover the amount described in paragraph (2).

(B) SURCHARGE AUTHORIZED.—The Secretary may impose on any conditional perma-

nent resident (as defined in section 244A(a) of the Immigration and Nationality Act) a surcharge in an amount determined by the Secretary to be the minimum proportional amount necessary to recover the amount equal to the difference between—

(i) the amount described in paragraph (2); and

(ii) the amount collected under subparagraph (A).

(b) BORDER SECURITY EXPENDITURES.—Amounts in the Trust Fund shall be available without further appropriation for procurement, construction, and improvements as follows:

(1) $784,000,000 for 32 miles of new border bollard fencing in the Rio Grande Valley in the State of Texas.

(2) $498,000,000 for 28 miles of new bollard levee wall in the Rio Grande Valley in the State of Texas.

(3) $251,000,000 for 14 miles of secondary fencing in San Diego, California.

(4) $38,239,000 for planning activities relating to border wall construction.

SEC. 4. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

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

"SEC. 244A. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

"(a) DEFINITIONS.—In this section:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given the term in section 101 of title 10, United States Code.

"(2) ACTIVE SERVICE.—The term 'active service' has the meaning given the term in section 101 of title 10, United States Code.

"(3) ACTIVE STATUS.—The term 'active status' has the meaning given the term in section 101 of title 10, United States Code.

"(4) ALIEN ENLISTEE.—The term 'alien enlistee' means a conditional permanent resident who seeks to maintain or extend conditional permanent resident status by means of satisfaction of the requirements of this section relating to enlistment and service in the Armed Forces.

"(5) ALIEN POSTSECONDARY STUDENT.—The term 'alien postsecondary student' means a conditional permanent resident who seeks to maintain or extend such conditional permanent resident status by means of satisfaction of the requirements of this section relating to enrollment in, and graduation from, an institution of higher education.

"(6) ARMED FORCES.—The term 'Armed Forces' has the meaning given the term 'armed forces' in section 101 of title 10, United States Code.

"(7) CONDITIONAL PERMANENT RESIDENT.—The term 'conditional permanent resident' means an alien who is granted conditional permanent resident status under subsection (b)(1)(A).

"(8) CONVICTION.—

"(A) IN GENERAL.—Subparagraph (B) of section 101(a)(48) shall not apply to the term 'conviction'.

"(B) EXCLUSIONS.—The term 'conviction' does not include—

"(i) an adjudication or judgment of guilt that has been dismissed, expunged, deferred, annulled, invalidated, withheld, or vacated;

"(ii) an order of probation without entry of judgment; or

"(iii) any similar disposition.

"(9) INSTITUTION OF HIGHER EDUCATION.—

"(A) IN GENERAL.—The term 'institution of higher education' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

"(B) EXCLUSION.—The term 'institution of higher education' does not include an institution of higher education outside the United States.

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

"(b) CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

"(1) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this section, the Secretary may cancel the removal of, and grant conditional permanent resident status to, an alien who—

"(i) meets the qualifications described in subparagraph (B); and

"(ii)(I) is inadmissible under section 212(a) or deportable under section 237(a); or

"(II) is the child of an alien who is lawfully present in the United States pursuant to the status described in section 101(a)(15)(E)(ii).

"(B) QUALIFICATIONS.—To qualify for cancellation of removal or conditional permanent resident status under subparagraph (A), an alien shall submit an application and supporting documentation that demonstrates by the preponderance of the evidence that—

"(i) the alien has been physically present in the United States for a continuous period since January 1, 2012;

"(ii) on the date on which the alien initially entered the United States, the alien was under 16 years of age;

"(iii) in the case of an alien who is 18 years of age or older on the date on which the alien submits an application under this subsection, the alien has—

"(I) earned—

"(aa) a high school diploma; or

"(bb) a commensurate alternative award from a public or private high school or secondary school;

"(II) obtained—

"(aa) a general education development certificate recognized under State law; or

"(bb) a high school equivalency diploma in the United States;

"(III) been admitted to an institution of higher education; or

"(IV) valid employment authorization;

"(iv) the alien has been a person of good moral character since the date on which the alien initially entered the United States;

"(v) subject to subparagraph (C)—

"(I) the alien is not inadmissible under paragraph (1), (2), (3), (4),

(6)(E), (8), (10)(A), (10)(C), or (10)(D) of section 212(a);

"(II) the alien is not deportable under paragraph (1)(E), (1)(G), (2), (4), (5), or (6) of section 237(a);

"(III) the alien has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

"(IV) other than an offense under State or local law for which an essential element is the immigration status of the alien, a minor traffic offense, or a violation of this section, the alien has not been convicted of—

"(aa) any offense under Federal or State law punishable by a maximum term of imprisonment of more than 1 year; or

"(bb) any combination of offenses under Federal or State law, for which the alien was sen-

1 tenced to imprisonment for a
2 total of more than 1 year; and
3 "(vi) the alien has never been subject
4 to a final administrative or judicial order
5 of exclusion, deportation, or removal, ex-
6 cept if the alien—
7 "(I) has remained in the United
8 States under color of law after the
9 date on which the order was issued; or
10 "(II) received the order before
11 the date on which the alien attained
12 the age of 18 years.
13 "(C) WAIVER.—With respect to any ben-
14 efit under this section, for humanitarian pur-
15 poses, family unity, or for any other purpose for
16 which a waiver would otherwise be in the public
17 interest, the Secretary may waive—
18 "(i) subparagraph (B)(v)(IV);
19 "(ii) the grounds of inadmissibility
20 under paragraphs (1), (4), and (6) of sec-
21 tion 212(a); and
22 "(iii) the grounds of deportability
23 under paragraph (1) of section 237(a).
24 "(D) PROCEDURES.—The Secretary shall
25 provide, by regulation, a procedure that allows

eligible individuals to apply affirmatively for conditional permanent resident status under this paragraph without being placed in removal proceedings.

"(E) SUBMISSION OF BIOMETRIC AND BIOGRAPHICAL DATA.—

"(i) IN GENERAL.—The Secretary may not cancel the removal of an alien or grant conditional permanent resident status to an alien under this paragraph unless the alien submits to the Secretary biometric and biographical data, in accordance with procedures established by the Secretary.

"(ii) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for the submission of biometric and biographical data for any applicant for conditional permanent resident status who is unable to provide biometric or biographical data due to a physical impairment.

"(F) BACKGROUND CHECKS.—

"(i) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric, biographical, and other data deter-

mined by the Secretary to be appropriate—

"(I) to conduct security and law enforcement background checks of any alien seeking cancellation of removal or conditional permanent resident status under this paragraph; and

"(II) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for cancellation of removal or conditional permanent resident status.

"(ii) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement background checks under clause (i) shall be completed, to the satisfaction of the Secretary, before the date on which the Secretary cancels the removal of, or grants conditional resident status to, the alien under this paragraph.

"(G) MEDICAL EXAMINATION REQUIRED.—

"(i) IN GENERAL.—An alien who applies for cancellation of removal or condi-

1 tional permanent resident status under this
2 paragraph shall undergo a medical obser-
3 vation and examination in accordance with
4 the policies and procedures prescribed
5 under clause (ii).
6 "(ii) PROCEDURES.—The Secretary,
7 with the concurrence of the Secretary of
8 Health and Human Services, shall pre-
9 scribe policies and procedures for the na-
10 ture and timing of medical observations
11 and examinations for aliens applying for
12 cancellation of removal or conditional per-
13 manent resident status under this para-
14 graph.
15 "(H) MILITARY SELECTIVE SERVICE.—An
16 alien subject to registration under the Military
17 Selective Service Act (50 U.S.C. App. 451 et
18 seq.) who applies for cancellation of removal or
19 conditional permanent resident status under
20 this paragraph shall provide to the Secretary
21 evidence that the alien has registered that Act.
22 "(2) TERMINATION OF CONTINUOUS PERIOD.—
23 For purposes of this subsection, any period of con-
24 tinuous residence or continuous physical presence in
25 the United States of an alien who applies for can-

1 cellation of removal or conditional permanent resi-
2 dent status under paragraph (1) shall not terminate
3 on the date on which the alien is served a notice to
4 appear under section 239(a).

5 "(3) TREATMENT OF CERTAIN BREAKS IN
6 PRESENCE.—

7 "(A) IN GENERAL.—For purposes of para-
8 graph (1)(B)(i), an alien shall be considered to
9 have failed to maintain continuous physical
10 presence in the United States if the alien has
11 remained outside the United States—

12 "(i) for any period of more than 90
13 days; or

14 "(ii) for 2 or more periods the total of
15 which is more than 180 days.

16 "(B) EXTENSION FOR EXCEPTIONAL CIR-
17 CUMSTANCES.—The Secretary may extend a
18 time period described in clause (i) or (ii) of sub-
19 paragraph (A) by not more than 90 days if an
20 alien demonstrates that the failure of the alien
21 to timely return to the United States was due
22 to exceptional circumstances, which shall be no
23 less compelling than—

24 "(i) the serious illness of the alien; or

"(ii) the death or serious illness of a parent, grandparent, sibling, or child of the alien.

"(4) REGULATIONS.—

"(A) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this section, the Secretary shall publish in the Federal Register interim regulations to implement this subsection.

"(B) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the interim regulations published under subparagraph (A)—

"(i) shall be effective, on an interim basis, immediately on the date on which the regulations are published; but

"(ii) may be subject to change and revision after public notice and a period of public comment.

"(C) FINAL REGULATIONS.—Within a reasonable period after the publication of the interim regulations under subparagraph (A), the Secretary shall publish final regulations to implement this subsection.

"(5) REMOVAL OF ALIEN.—The Secretary may not remove any alien who—

"(A) has a pending application for conditional permanent resident status under this subsection; or

"(B)(i) establishes prima facie eligibility for cancellation of removal or conditional permanent resident status under paragraph (1); and

"(ii) is provided a reasonable opportunity to submit an application under that paragraph.

"(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

"(1) LENGTH OF STATUS.—Conditional permanent resident status granted under subsection (b)(1) shall be valid for an initial period of 5 years, subject to termination under paragraph (4).

"(2) DESCRIPTION OF STATUS.—A conditional permanent resident—

"(A) shall not be considered to be an alien who is unlawfully present in the United States for purposes of the immigration laws, including section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623);

"(B) shall be considered to be an alien lawfully admitted for permanent residence in the United States on a conditional basis;

"(C) shall be considered to have the intent to permanently reside in the United States;

"(D) shall not be required to have a foreign residence that the alien has no intention of abandoning; and

"(E) shall be considered to have been inspected and admitted for the purposes of section 245(a).

"(3) TERMS OF CONDITIONAL PERMANENT RESIDENT STATUS.—

"(A) EMPLOYMENT.—A conditional permanent resident shall be authorized—

"(i) to be employed in the United States incident to conditional permanent resident status; and

"(ii) to enlist in the Armed Forces under section 504(b)(1)(D) of title 10, United States Code.

"(B) TRAVEL.—A conditional permanent resident may—

"(i) travel outside the United States; and

"(ii) if otherwise admissible, be admitted on return to the United States without obtaining a visa if—

"(I) the conditional permanent resident is the bearer of valid, unexpired documentary evidence of conditional permanent resident status; and

"(II)(aa) the absence of the conditional permanent resident from the United States was for a period of not more than 180 days; or

"(bb) the conditional permanent resident was outside the United States due to active service in the Armed Forces.

"(4) TERMINATION OF STATUS.—

"(A) IN GENERAL.—The Secretary shall terminate the conditional permanent resident status of an alien if the Secretary determines that—

"(i) the alien is 18 years of age or older; and

"(ii)(I) in the case of—

"(aa) an alien postsecondary student, the alien has failed—

"(AA) to enroll in an accredited institution of higher education within 1 year after the date on which the alien was granted conditional permanent resident status; or

"(BB) to remain enrolled in an accredited institution of higher education as of the date that is 1 year after the date on which the alien was granted conditional permanent resident status;

"(bb) an alien described in subsection (b)(1)(B)(iii), during the 5-year period beginning on the date on which the alien was granted conditional permanent resident status, the alien has not been employed for a total period of not less than 4 years; or

"(cc) an alien enlistee, the alien—

"(AA) failed to enlist, and be accepted for enlistment, in the Armed Forces within 270 days

after the date on which the alien was granted conditional permanent resident status; or

"(BB) has received a dishonorable or other than honorable discharge from the Armed Forces;

"(II) the alien ceases to meet the requirements of clause (iv) or (v) of subsection (b)(1)(B); or

"(III) the alien has become a public charge.

"(B) RETURN TO PREVIOUS IMMIGRATION STATUS.—An alien whose conditional permanent resident status is terminated under subparagraph (A) shall return to the immigration status of the alien on the day before the date on which the alien was granted conditional permanent resident status.

"(5) EXTENSION OF STATUS.—

"(A) IN GENERAL.—With respect to an alien granted conditional permanent resident status under subsection (b)(1), the Secretary shall extend the period of conditional permanent resident status of the alien for an addi-

1 tional period of 5 years if the alien meets each
2 of the applicable requirements described in sub-
3 paragraph (B).
4 "(B) REQUIREMENTS.—
5 "(i) GOOD MORAL CHARACTER.—The
6 alien has demonstrated good moral char-
7 acter for the entire period during which
8 the alien has been a conditional permanent
9 resident.
10 "(ii) COMPLIANCE.—The alien meets
11 the qualification described in subsection
12 (b)(1)(B)(v).
13 "(iii) NO ABANDONMENT OF RESI-
14 DENCE.—
15 "(I) IN GENERAL.—The alien has
16 not abandoned the residence of the
17 alien in the United States.
18 "(II) PRESUMPTION.—
19 "(aa) IN GENERAL.—For
20 purposes of this clause, except as
21 provided in item (bb), the Sec-
22 retary shall presume that an
23 alien has abandoned the resi-
24 dence of the alien in the United
25 States if, during the period of

conditional permanent resident status of the alien, the alien is absent from the United States for more than 365 days in the aggregate.

"(bb) EXCEPTION.—Notwithstanding an absence from the United States of more than 365 days in the aggregate during the period of conditional permanent resident status of an alien, the presumption described in item (aa) shall not apply if the alien demonstrates, to the satisfaction of the Secretary, that the alien has not abandoned the residence of the alien in the United States.

"(iv) GRADUATION.—In the case of an alien postsecondary student, the alien—

"(I) is 18 years of age or older; and

"(II) has graduated from an accredited institution of higher education.

"(v) EMPLOYMENT.—In the case of an alien described in subsection (b)(1)(B)(iii), during the 5-year period beginning on the date on which the alien was granted conditional permanent resident status, the alien has been employed for a total period of not less than 4 years.

"(vi) ENLISTMENT.—In the case of an alien enlistee—

"(I) the alien has served as a member of a regular or reserve component of the Armed Forces in an active duty status for not less than 3 years; and

"(II) if the alien has been discharged, the alien received an honorable discharge.

"(d) REMOVAL OF CONDITIONAL BASIS FOR PERMANENT RESIDENCE.—

"(1) APPLICATION TO REMOVE CONDITIONS.—

"(A) IN GENERAL.—A conditional permanent resident may submit to the Secretary, in accordance with paragraph (3), an application—

"(i) to remove the conditional basis of permanent residency; and

"(ii) to have the status of the alien adjusted to that of an alien lawfully admitted for permanent residence.

"(B) CONTENTS.—With respect to any application submitted under subparagraph (A), an alien shall include, under penalty of perjury, the facts and information necessary for the Secretary to make the determination described in paragraph (2)(A).

"(2) ADJUDICATION OF APPLICATION FOR ADJUSTMENT OF STATUS.—

"(A) IN GENERAL.—With respect to an application submitted under paragraph (1) for an alien, the Secretary shall make a determination as to whether the alien meets the requirements described in paragraph (4).

"(B) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—Notwithstanding any other provision of law, including paragraphs (2), (3), (4), and (8) of section 245(c), if the Secretary determines that an alien meets the requirements described in paragraph (4)(B), the Secretary shall—

"(i) approve the application;

"(ii) notify the alien of the determination; and

"(iii) adjust the status of the alien to the status of an alien lawfully admitted for permanent residence, which shall be effective as of the date of approval of the application.

"(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet the requirements described in paragraph (4)(B), the Secretary shall—

"(i) deny the application;

"(ii) notify the alien of the determination; and

"(iii) terminate the conditional permanent resident status of the alien as of the date of the determination.

"(3) TIME TO FILE APPLICATION.—

"(A) IN GENERAL.—An alien shall submit an application for adjustment of status during the period beginning on the date on which the alien obtains an extension of status under subsection (c)(5) and ending on—

"(i) the date that is 10 years after the date on which the Secretary initially granted conditional permanent resident status to the alien; or

"(ii) the date on which the conditional permanent resident status of the alien, as extended by the Secretary under subsection (c)(5), expires.

"(B) STATUS DURING PENDENCY.—During any period in which the application of an alien for adjustment of status under this subsection is pending, an alien shall be considered to be in conditional permanent resident status.

"(4) CONTENTS OF APPLICATION.—

"(A) IN GENERAL.—An application to remove conditions and adjust status under paragraph (1) shall contain information necessary for the Secretary to determine whether the alien meets each of the requirements described in subparagraph (B).

"(B) REQUIREMENTS.—

"(i) GOOD MORAL CHARACTER.—The alien has demonstrated good moral character for the entire period during which

the alien has been a conditional permanent resident;

"(ii) COMPLIANCE.—The alien meets the requirements of subsection (b)(1)(B)(v);

"(iii) NO ABANDONMENT OF RESIDENCE.—

"(I) IN GENERAL.—The alien has not abandoned the residence of the alien in the United States.

"(II) PRESUMPTION.—

"(aa) IN GENERAL.—For purposes of this subparagraph, except as provided in item (bb), the Secretary shall presume that an alien has abandoned the residence of the alien in the United States if, during the period of conditional permanent resident status, the alien is absent from the United States for more than 730 days in the aggregate.

"(bb) EXCEPTION.—Notwithstanding an absence from the United States of more than 730

1 days in the aggregate during the
2 period of conditional permanent
3 resident status of an alien, the
4 presumption described in item
5 (aa) shall not apply if the alien
6 demonstrates, to the satisfaction
7 of the Secretary, that the alien
8 has not abandoned the residence
9 of the alien in the United States.
10 "(III) ACTIVE SERVICE.—Any
11 period during which an alien is absent
12 from the United States due to active
13 service in the Armed Forces shall not
14 be counted toward the 730 days re-
15 ferred to in subclause (II)(aa).
16 "(5) CITIZENSHIP REQUIREMENT.—
17 "(A) IN GENERAL.—Except as provided in
18 subparagraph (B), a conditional permanent
19 resident shall not have the conditional basis for
20 permanent residency removed or be adjusted to
21 permanent resident status unless the alien dem-
22 onstrates that the alien meets the requirements
23 described in paragraphs (1) and (2) of section
24 312(a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements referred to in that subparagraph due to—

"(i) a physical or developmental disability; or

"(ii) a mental impairment.

"(6) PAYMENT OF FEDERAL TAXES.—

"(A) DEFINITION OF APPLICABLE FEDERAL TAX LIABILITY.—In this paragraph, the term 'applicable Federal tax liability' means liability for Federal taxes imposed under the Internal Revenue Code of 1986, including any penalties and interest on taxes imposed under the Internal Revenue Code of 1986.

"(B) PAYMENT REQUIRED.—Not later than the date on which an alien submits an application for adjustment of status under paragraph (1), the alien shall satisfy any applicable Federal tax liability due and owing as of that date of submission.

"(7) SUBMISSION OF BIOMETRIC AND BIOGRAPHICAL DATA.—

"(A) IN GENERAL.—The Secretary may not adjust the status of an alien under this sub-

1 section unless the alien submits to the Sec-
2 retary biometric and biographical data in ac-
3 cordance with procedures established by the
4 Secretary.
5 "(B) ALTERNATIVE PROCEDURE.—The
6 Secretary shall provide an alternative procedure
7 for the submission of biometric and biographi-
8 cal data for any applicant for adjustment of
9 status who is unable to provide biometric or bi-
10 ographical data due to a physical impairment.
11 "(8) BACKGROUND CHECKS.—
12 "(A) REQUIREMENT FOR BACKGROUND
13 CHECKS.—The Secretary shall use biometric,
14 biographical, and other data determined by the
15 Secretary to be appropriate—
16 "(i) to conduct security and law en-
17 forcement background checks of any alien
18 applying for adjustment of status under
19 this subsection; and
20 "(ii) to determine whether there is
21 any criminal, national security, or other
22 factor that would render the alien ineligible
23 for adjustment of status.
24 "(B) COMPLETION OF BACKGROUND
25 CHECKS.—The security and law enforcement

1 background checks under subparagraph (A)
2 shall be completed, to the satisfaction of the
3 Secretary, before the date on which Secretary
4 grants adjustment of status.

5 "(9) EXEMPTION FROM NUMERICAL LIMITA-
6 TIONS.—Nothing in this subsection or in any other
7 law applies a numerical limitation on the number of
8 aliens who may be eligible for adjustment of status
9 under this subsection.

10 "(10) ELIGIBILITY FOR NATURALIZATION.—

11 "(A) IN GENERAL.—An alien whose status
12 is adjusted under this subsection to that of an
13 alien lawfully admitted for permanent residence
14 may be naturalized in accordance with this Act
15 if the alien meets the applicable requirements of
16 the immigration laws.

17 "(B) ALIEN ENLISTEES.—For purposes of
18 section 316(a), an alien enlistee whose status is
19 adjusted under this subsection—

20 "(i) shall be considered to have satis-
21 fied the requirements of paragraphs (1)
22 and (2) of that section; and

23 "(ii) may apply for naturalization.

"(e) TREATMENT OF ALIENS MEETING REQUIREMENTS FOR EXTENSION OF CONDITIONAL PERMANENT RESIDENT STATUS.—

"(1) IN GENERAL.—With respect to an alien, the Secretary may cancel removal and grant conditional permanent resident status under subsection (b)(1), and may extend conditional permanent resident status under subsection (c)(5), if, as of the date of enactment of this section, the alien has satisfied each requirement described in subsections (b)(1)(B) and (c)(5)(B).

"(2) ADJUSTMENT OF STATUS.—An alien may apply for adjustment of status under subsection (d)(1) if, during the entire period of conditional permanent resident status of the alien, the alien has met the requirements of subsection (c)(5)(B).

"(f) EXCLUSIVE JURISDICTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall have exclusive jurisdiction to determine eligibility for relief under this section.

"(2) EXCEPTION.—In the case of an alien who has been placed in deportation, exclusion, or removal proceedings before or after the date on which the alien submits an application for cancellation of re-

1 moval and conditional permanent resident status or
2 adjustment of status under this section, the Attor-
3 ney General—
4 "(A) shall have exclusive jurisdiction to de-
5 termine eligibility for relief under this section;
6 and
7 "(B) shall assume all powers and duties of
8 the Secretary described in this section until the
9 date on which—
10 "(i) deportation, exclusion, or removal
11 proceedings are terminated; or
12 "(ii) a final order of deportation, ex-
13 clusion, or removal is entered.
14 "(3) EFFECT OF FINAL ORDER.—In the case of
15 an alien for whom a final order of deportation, ex-
16 clusion, or removal is entered, the Secretary shall re-
17 sume all powers and duties delegated to the Sec-
18 retary under this section.
19 "(4) EFFECT OF GRANT OF RELIEF.—In the
20 case of an alien with respect to whom a final order
21 of deportation, exclusion, or removal has been en-
22 tered, if the Secretary grants relief to the alien
23 under this section, the Attorney General shall re-
24 scind the final order of deportation, exclusion, or re-
25 moval.

"(g) CONFIDENTIALITY OF INFORMATION.—

"(1) PROHIBITION.—Except as provided in paragraph (2), an officer or employee of the United States shall not—

"(A) use the information furnished by an individual in an application submitted to the Secretary under this section to initiate removal proceedings against any person identified in the application;

"(B) issue any publication in which the information furnished by any particular individual in an application under this section may be identified; or

"(C) permit any person (other than the Secretary, an officer or employee of the Federal Government, or the alien) to examine an application submitted under this section.

"(2) REQUIRED DISCLOSURE.—The Attorney General or the Secretary, as applicable, shall provide the information furnished by an individual in an application under this section, and any other information derived from the information, to—

"(A) a Federal, State, Tribal, or local law enforcement agency, intelligence agency, national security agency, component of the De-

1 partment of Homeland Security, court, or
2 grand jury in connection with a criminal inves-
3 tigation or prosecution, a background check
4 conducted pursuant to the Brady Handgun Vio-
5 lence Protection Act (Public Law 103–159; 107
6 Stat. 1536) (or an amendment made by that
7 Act), or for homeland security or national secu-
8 rity purposes, if—
9 "(i) the information is requested by
10 the Federal, State, Tribal, or local law en-
11 forcement agency, intelligence agency, na-
12 tional security agency, component of the
13 Department of Homeland Security, court,
14 or grand jury; and
15 "(ii) the provision of the information
16 is consistent with an information sharing
17 agreement or mechanism; or
18 "(B) an official coroner for purposes of af-
19 firmatively identifying a deceased individual
20 (whether or not the deceased individual is de-
21 ceased as a result of a crime).
22 "(3) FRAUD IN APPLICATION PROCESS OR
23 CRIMINAL CONDUCT.—Notwithstanding any other
24 provision of this subsection, information relating to
25 whether an alien seeking cancellation of removal or

1 conditional permanent resident status under this
2 section has engaged in fraud in an application for
3 relief or has, at any time, committed a crime may
4 be used or released for immigration enforcement,
5 law enforcement, or national security purposes.
6 "(4) PENALTY.—Any person who knowingly
7 uses or publishes information, or permits informa-
8 tion to be examined, in violation of this subsection
9 shall be fined not more than $10,000.
10 "(h) TREATMENT OF CONDITIONAL PERMANENT
11 RESIDENTS FOR CERTAIN PURPOSES.—
12 "(1) IN GENERAL.—During the period in which
13 an alien is in conditional permanent resident status,
14 the alien shall be considered to be lawfully present
15 for all purposes.
16 "(2) 5-YEAR ELIGIBILITY WAITING PERIOD
17 UNDER PRWORA.—An alien who has met the re-
18 quirements for adjustment of status from conditional
19 permanent resident to lawful permanent resident
20 under this section shall be considered to have com-
21 pleted the 5-year period described in section 403 of
22 the Personal Responsibility and Work Opportunity
23 Reconciliation Act of 1996 (8 U.S.C. 1613) as of the
24 date on which the adjustment of status is granted.

"(i) GAO REPORT.—Not later than 7 years after the date of enactment of this section, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes the number of aliens—

"(1) who were eligible for cancellation of removal or conditional permanent resident status under subsection (b)(1);

"(2) who applied for cancellation of removal or conditional permanent resident status under that subsection;

"(3) who were granted conditional permanent resident status under that subsection; and

"(4) whose status was adjusted to that of an alien lawfully admitted for permanent residence under subsection (d).

"(j) NATURALIZATION OF ALIEN ENLISTEES.—For purposes of sections 328 and 329, an alien enlistee shall be considered to have been lawfully admitted for permanent residence, without regard to the conditional status of that admission.".

(b) MILITARY ENLISTMENT.—Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following:

"(D) An alien who is a conditional permanent resident (as defined in section 244A(a) of the Immigration and Nationality Act).".

(c) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

"Sec. 244A. Cancellation of removal of certain long-term residents who entered the United States as children.".

SEC. 5. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN MEMBERS OF CRIMINAL GANGS OR CARTELS.

(a) DEFINITION OF CRIMINAL GANG OR CARTEL.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) by striking the subsection designation and all that follows through "this Act—" and inserting the following:

"(a) IN GENERAL.—In this Act:"; and

(2) by adding at the end the following:

"(53) CRIMINAL GANG OR CARTEL.—The term 'criminal gang or cartel' means an ongoing group, club, organization, or association comprised of 5 or more individuals—

"(A)(i) that has as a primary purpose the commission of 1 or more of the criminal offenses described in section 220(b)(2); and

"(ii) the members of which engage, or have engaged during the 5 years immediately preceding the most recent commission of an offense described in section 220(b)(2), in a continuing series of offenses described in section 220(b)(2); or

"(B) that has been designated as a criminal gang or cartel under section 220(b)(1).".

(b) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS OR CARTELS.—Any alien is inadmissible who a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason to believe—

"(i) is or has been a member of a criminal gang or cartel; or

"(ii) has participated in any activity of a criminal gang or cartel, knowing or having reason to know that the activity would promote, further, aid, or support the

illegal activity of the criminal gang or cartel.".

(c) DEPORTABILITY.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS OR CARTELS.—Any alien is deportable who—

"(i) is or has been a member of a criminal gang or cartel; or

"(ii) has participated in any activity of a criminal gang or cartel, knowing or having reason to know that the activity would promote, further, aid, or support the illegal activity of the criminal gang or cartel.".

(d) DESIGNATION OF A CRIMINAL GANG OR CARTEL.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182 et seq.) is amended by inserting after section 219 the following:

"SEC. 220. DESIGNATION OF A CRIMINAL GANG OR CARTEL.

"(a) DEFINITIONS.—In this section:

"(1) CLASSIFIED INFORMATION.—The term 'classified information' has the meaning given the term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

"(2) NATIONAL SECURITY.—The term 'national security' means the national defense, foreign relations, or economic interests of the United States.

"(3) RELEVANT COMMITTEES.—The term 'relevant committees' means—

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

"(B) the Committee on the Judiciary of the House of Representatives; and

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security, in consultation with the Attorney General.

"(b) DESIGNATION.—

"(1) IN GENERAL.—The Secretary may designate as a criminal gang or cartel a group, club, organization, or association comprised of 5 or more individuals if the Secretary makes a determination that—

"(A) the group, club, organization, or association has as a primary purpose the commis-

1 sion of 1 or more criminal offenses described in
2 paragraph (2); and
3 "(B) the members of the group, club, orga-
4 nization, or association engage, or, during the 5
5 years immediately preceding the most recent
6 commission of an offense described in section
7 220(b)(2), have engaged in a continuing series
8 of offenses described in paragraph (2).
9 "(2) OFFENSES.—The criminal offenses de-
10 scribed in this paragraph, whether committed in vio-
11 lation of Federal, State, or foreign law and regard-
12 less of whether an offense occurred before, on, or
13 after the date of enactment of this section, are the
14 following:
15 "(A) FELONY DRUG OFFENSE.—A felony
16 drug offense (as defined in section 102 of the
17 Controlled Substances Act (21 U.S.C. 802)).
18 "(B) BRINGING IN AND HARBORING
19 ALIENS.—An offense described in section 274
20 (relating to bringing in and harboring certain
21 aliens).
22 "(C) AIDING OR ASSISTING ENTRY.—An
23 offense described in section 277 (relating to
24 aiding or assisting certain aliens to enter the
25 United States).

"(D) IMPORTATION FOR AN IMMORAL PURPOSE.—An offense described in section 278 (relating to importation of an alien for an immoral purpose).

"(E) CRIME OF VIOLENCE.—A crime of violence (as defined in section 16 of title 18, United States Code).

"(F) CRIME INVOLVING OBSTRUCTION, TAMPERING, RETALIATION, OR BURGLARY.—A crime involving—

"(i) obstruction of justice;

"(ii) tampering with, or retaliating against, a witness, victim, or informant; or

"(iii) burglary.

"(G) OTHER CRIMES.—Any conduct punishable under—

"(i) sections 1028 or 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices);

"(ii) sections 1581 through 1594 of that title (relating to peonage, slavery, and trafficking in persons);

"(iii) section 1951 of that title (relating to interference with commerce by threats or violence);

"(iv) section 1952 of that title (relating to interstate and foreign travel or transportation in aid of racketeering enterprises);

"(v) section 1956 of that title (relating to the laundering of monetary instruments);

"(vi) section 1957 of that title (relating to engaging in monetary transactions in property derived from specified unlawful activity); or

"(vii) sections 2312, 2313, 2314, or 2315 of that title (relating to interstate transportation of stolen motor vehicles or stolen property).

"(H) CONSPIRACY.—A conspiracy to commit an offense described in subparagraphs (A) through (G).

"(3) PROCEDURE.—

"(A) NOTIFICATION.—Not later than 7 days before the date on which the Secretary designates a criminal gang or cartel under this

1 subsection, the Secretary shall submit to the
2 Speaker and minority leader of the House of
3 Representatives, the President pro tempore,
4 majority leader, and minority leader of the Sen-
5 ate, and the members of the relevant commit-
6 tees, by classified communication, a notice of
7 intent to designate the criminal gang or cartel
8 that describes the factual basis for the designa-
9 tion.

10 "(B) PUBLICATION IN THE FEDERAL REG-
11 ISTER.—Not later than 7 days after the date
12 described in subparagraph (A), the Secretary
13 shall publish notice of the designation in the
14 Federal Register.

15 "(4) RECORD.—

16 "(A) IN GENERAL.—In making a designa-
17 tion under this subsection, the Secretary shall
18 develop an administrative record.

19 "(B) CLASSIFIED INFORMATION.—

20 "(i) IN GENERAL.—In making a des-
21 ignation under this subsection, the Sec-
22 retary may consider classified information,
23 which, except as provided in clause (ii),
24 shall not be subject to disclosure for any

1 period during which the classified informa-
2 tion remains classified.
3 "(ii) DISCLOSURE FOR JUDICIAL RE-
4 VIEW.—For purposes of judicial review
5 under subsection (d), classified information
6 referred to in clause (i) may be disclosed
7 to a court ex parte and in camera.
8 "(5) PERIOD OF DESIGNATION.—A designation
9 under this subsection shall be effective until the date
10 on which the designation—
11 "(A) is revoked under paragraph (7); or
12 "(B) set aside under subsection (d).
13 "(6) REVIEW OF DESIGNATION.—
14 "(A) PETITION FOR REVIEW.—
15 "(i) IN GENERAL.—The Secretary
16 shall review the designation of a criminal
17 gang or cartel under the procedures de-
18 scribed in clauses (iii) and (iv) if the crimi-
19 nal gang or cartel submits to the Secretary
20 a petition for review not later than—
21 "(I) in the case of a designated
22 criminal gang or cartel that has not
23 previously submitted a petition for re-
24 view under this subparagraph, the
25 date that is 2 years after the date on

which the Secretary makes the designation; and

"(II) in the case of a designated criminal gang or cartel that has previously submitted a petition for review under this subparagraph, the date that is 2 years after the date on which the Secretary made a determination under clause (iv) on the most recent petition for review submitted by the criminal gang or cartel.

"(ii) EVIDENCE.—Any group, club, organization, or association designated as criminal gang or cartel that submits a petition for review under this subparagraph shall include in the petition evidence that the group, club, organization, or association does not meet the criteria for designation as a criminal gang or cartel under paragraph (1).

"(iii) DETERMINATION.—

"(I) IN GENERAL.—Not later than 180 days after the date on which the Secretary receives a petition for review under this subparagraph, the

1 Secretary shall make a determination
2 on the petition.
3 "(II) CLASSIFIED INFORMA-
4 TION.—
5 "(aa) IN GENERAL.—In
6 making a determination on a pe-
7 tition for review under this sub-
8 paragraph, the Secretary may
9 consider classified information,
10 which, except as provided in item
11 (bb), shall not be subject to dis-
12 closure for any period during
13 which the classified information
14 remains classified.
15 "(bb) DISCLOSURE FOR JU-
16 DICIAL REVIEW.—For purposes
17 of judicial review under sub-
18 section (d), classified information
19 referred to in item (aa) may be
20 disclosed to a court ex parte and
21 in camera.
22 "(III) PUBLICATION OF DETER-
23 MINATION.—Not later than 90 days
24 after the date on which the Secretary
25 makes a determination on a petition

1 for review under this clause, the Sec-
2 retary shall publish the determination
3 in the Federal Register.
4 "(IV) PROCEDURES.—A revoca-
5 tion of a designation by the Secretary
6 in accordance with a determination
7 under this subparagraph shall be
8 made in accordance with paragraph
9 (7).
10 "(B) OTHER REVIEW OF DESIGNATION.—
11 "(i) IN GENERAL.—Not later than 5
12 years after the date on which the Secretary
13 designates a criminal gang or cartel under
14 paragraph (1), in the case of a criminal
15 gang or cartel for which a review has not
16 been carried out under subparagraph (A),
17 the Secretary shall initiate a review of the
18 designation to determine whether to revoke
19 the designation under paragraph (7).
20 "(ii) PROCEDURES.—
21 "(I) IN GENERAL.—A review ini-
22 tiated by the Secretary under clause
23 (i) shall be carried out in accordance
24 with such procedures determined by
25 the Secretary to be appropriate.

"(II) JUDICIAL REVIEW.—A review under subclause (I) and the procedures established under that subclause shall not be subject to judicial review.

"(iii) PUBLICATION OF RESULTS OF REVIEW.—Not later than 90 days after the date on which the Secretary makes a determination based on a review under this subparagraph, the Secretary shall publish the determination in the Federal Register.

"(7) REVOCATION BASED ON CHANGE IN CIRCUMSTANCES.—

"(A) IN GENERAL.—With respect to a designation under paragraph (1), the Secretary—

"(i) may revoke the designation at any time; and

"(ii) shall revoke the designation if, on completion of a review carried out under paragraph (6), the Secretary determines that—

"(I) the criminal gang or cartel does not meet the criteria for designation as a criminal gang or cartel under paragraph (1); or

"(II) the national security or the law enforcement interests of the United States warrants a revocation.

"(B) NOTIFICATION.—Not later than 7 days before revoking a designation under paragraph (A), the Secretary shall submit to the Speaker and minority leader of the House of Representatives, the President pro tempore, majority leader, and minority leader of the Senate, and the members of the relevant committees, by classified communication, a notice of intent to revoke the designation describing the basis for the revocation.

"(C) PUBLICATION IN THE FEDERAL REGISTER.—Not later than 7 days after the date described in subparagraph (B), the Secretary shall publish a notice of revocation in the Federal Register.

"(D) RECORD.—

"(i) IN GENERAL.—In revoking a designation under this paragraph, the Secretary shall develop an administrative record.

"(ii) CLASSIFIED INFORMATION.—

"(I) IN GENERAL.—In revoking a designation under this paragraph, the Secretary may consider classified information, which, except as provided in subclause (II), shall not be subject to disclosure for any period during which the classified information remains classified.

"(II) DISCLOSURE FOR JUDICIAL REVIEW.—For purposes of judicial review under subsection (d), classified information referred to in subclause (I) may be disclosed to a court ex parte and in camera.

"(E) EFFECTIVE DATE.—A revocation under this paragraph shall take effect—

"(i) on the date specified in the notice of revocation published under subparagraph (C); or

"(ii) if a date is not specified in the notice of revocation, on the date on which the notice of revocation is published in the Federal Register.

"(8) EFFECT OF REVOCATION.—A revocation under paragraph (7) shall not affect any action or

1 proceeding based on conduct that occurs before the
2 effective date of the revocation.
3 "(9) USE OF DESIGNATION IN REMOVAL PRO-
4 CEEDINGS.—The Attorney General shall not allow
5 an alien in removal proceedings to raise, as a de-
6 fense or an objection, a question relating to the va-
7 lidity of a designation under paragraph (1).
8 "(c) MODIFICATIONS TO A DESIGNATION.—
9 "(1) IN GENERAL.—With respect to a designa-
10 tion under subsection (b)(1), the Secretary may
11 modify the designation if the Secretary determines
12 that the criminal gang or cartel has—
13 "(A) changed name;
14 "(B) adopted a new alias;
15 "(C) dissolved and reestablished under 1
16 or more different names; or
17 "(D) merged with another criminal gang
18 or cartel.
19 "(2) PROCEDURE.—
20 "(A) NOTIFICATION.—Not later than 7
21 days before the date on which the Secretary
22 modifies the designation of a criminal gang or
23 cartel under this subsection, the Secretary shall
24 submit to the Speaker and minority leader of
25 the House of Representatives, the President pro

1 tempore, majority leader, and minority leader of
2 the Senate, and the members of the relevant
3 committees, by classified communication, a no-
4 tice of intent to modify the designation describ-
5 ing the factual basis for the modification.

6 "(B) PUBLICATION IN THE FEDERAL REG-
7 ISTER.—Not later than 7 days after the date
8 described in subparagraph (A), the Secretary
9 shall publish notice of the modification in the
10 Federal Register.

11 "(C) CLASSIFIED INFORMATION.—

12 "(i) IN GENERAL.—In modifying a
13 designation under this subsection, the Sec-
14 retary may consider classified information,
15 which, except as provided in clause (ii),
16 shall not be subject to disclosure for any
17 period during which the classified informa-
18 tion remains classified.

19 "(ii) DISCLOSURE FOR JUDICIAL RE-
20 VIEW.—For purposes of judicial review
21 under subsection (d), classified information
22 referred to in clause (i) may be disclosed
23 to a court ex parte and in camera.

24 "(D) EFFECTIVE DATE.—Any modification
25 under this subsection shall take effect on the

1 date of publication of the modification under
2 subparagraph (B).
3 "(3) ADMINISTRATIVE RECORD.—The adminis-
4 trative record developed under subsection (b)(4)
5 shall be supplemented to include—
6 "(A) any modification under this sub-
7 section; and
8 "(B) any relevant information that sup-
9 ports the modification.
10 "(d) JUDICIAL REVIEW OF DESIGNATION.—
11 "(1) IN GENERAL.—Not later than 30 days
12 after the date on which a designation under sub-
13 section (b)(1), a determination under subsection
14 (b)(6)(A), or a modification under subsection (c) is
15 published in the Federal Register, a criminal gang
16 or cartel may seek judicial review of the designation,
17 determination, or modification, as applicable, in the
18 United States Court of Appeals for the District of
19 Columbia Circuit (referred to in this subsection as
20 the 'court').
21 "(2) BASIS OF REVIEW.—
22 "(A) IN GENERAL.—Except as provided in
23 subparagraph (B), judicial review under this
24 subsection shall be based only on the adminis-

1 trative record developed under subsection
2 (b)(4).
3 "(B) EXCEPTION.—The Government may
4 submit, for ex parte and in camera review, clas-
5 sified information used as a basis for—
6 "(i) a designation under subsection
7 (b)(1);
8 "(ii) a determination under subsection
9 (b)(6)(A); or
10 "(iii) a modification under subsection
11 (c).
12 "(3) SCOPE OF REVIEW.—The court shall hold
13 unlawful, and set aside, any designation under sub-
14 section (b)(1), determination under subsection
15 (b)(6)(A), or modification under subsection (c) that
16 is, as determined by the court—
17 "(A) arbitrary, capricious, an abuse of dis-
18 cretion, or otherwise not in accordance with the
19 law;
20 "(B) contrary to constitutional right,
21 power, privilege, or immunity;
22 "(C) in excess of statutory jurisdiction, au-
23 thority, or limitation;
24 "(D) short of statutory right;
25 "(E) lacking substantial support—

"(i) in the administrative record, taken into consideration as a whole; or

"(ii) in classified information submitted to the court under paragraph (2)(B); or

"(F) not in accordance with a procedure required by law.

"(4) JUDICIAL REVIEW INVOKED.—The pendency of an action for judicial review under this subsection shall not affect the application of this section to a criminal gang or cartel unless the court issues a final order setting aside the designation, determination, or modification.".

(2) CONFORMING AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 219 the following:

"Sec. 220. Designation of a criminal gang or cartel.".

(e) MANDATORY DETENTION OF ALIEN MEMBERS OF CRIMINAL GANGS OR CARTELS.—

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

(A) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(B) in subparagraph (B), by striking the comma at the end and inserting a semicolon;

(C) in subparagraph (C), by striking ", or" and inserting a semicolon;

(D) in subparagraph (D), by striking the comma at the end and inserting "; or"; and

(E) by inserting after subparagraph (D) the following:

"(E) is inadmissible under section 212(a)(2)(J) or deportable under section 237(a)(2)(G),".

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of enactment of this Act), the Secretary, after consultation with the appropriate Federal agencies, shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that includes the number of aliens detained under subparagraph (E) of section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) during the preceding calendar year.

(f) RELIEF BASED ON GANG AFFILIATION.—

(1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section

241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(A) by redesignating clauses (i) through (iv) as items (aa) through (dd), respectively, and indenting the items appropriately;

(B) in the matter preceding item (aa) (as so redesignated), by striking "apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—" and inserting the following: "apply—

"(i) to an alien—

"(I) described in section 212(a)(2)(J)(i);

"(II) described in section 237(a)(2)(G)(i); or

"(III) who is deportable under section 237(a)(4)(D); or

"(ii) if the Attorney General determines that—"; and

(C) in the undesignated matter following item (dd) (as so redesignated)—

(i) in the first sentence, by striking "clause (ii)" and inserting "item (bb)"; and

(ii) in the third sentence, by striking "clause (iv)" and inserting "item (dd)".

(2) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(A) in clause (v), by striking "; or" and inserting a semicolon;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following:

"(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i); or".

(g) TEMPORARY PROTECTED STATUS.—

(1) IN GENERAL.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) is amended—

(A) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security";

(B) in subsection (c)(2)(B)—

(i) in clause (i), by striking ", or" and inserting a semicolon;

(ii) in clause (ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) the alien is described in section 212(a)(2)(J) or section 237(a)(2)(G)."; and

(C) in subsection (d)—

(i) in paragraph (2)—

(I) in the first sentence, by striking "Subject to paragraph (3), such documentation" and inserting "The documentation referred to in paragraph (1)"; and

(II) in the second sentence, by striking "(under paragraph (3))";

(ii) by striking paragraph (3);

(iii) by redesignating paragraph (4) as paragraph (3); and

(iv) in paragraph (3) (as so redesignated), by striking "An alien provided" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Homeland Security may detain an alien provided tem-

porary protected status under this section, as determined by the Secretary to be appropriate under the law.

"(B) EXCEPTION.—An alien provided".

(2) CONFORMING AMENDMENT.—Section 244(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)(B)) is amended in the second sentence by striking "is effective in accordance with subsection (d)(3), but".

(h) SPECIAL IMMIGRANT JUVENILE VISAS.—Section 101(a)(27)(J)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

(1) in subclause (I), by striking "; and" and inserting a semicolon;

(2) in subclause (II), by striking the semicolon at the end and inserting "; and"; and

(3) by adding at the end the following:

"(III) no alien described in section 212(a)(2)(J) or section 237(a)(2)(G) shall be eligible for any immigration benefit under this subparagraph;".

(i) PAROLE.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended—

(1) by striking "Attorney General" each place it appears and inserting "Secretary of Homeland Security";

(2) by striking the paragraph designation and all that follows through "in his discretion" in subparagraph (A) and inserting the following:

"(5) PAROLE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and in section 214(f), the Secretary of Homeland Security may"; and

(3) by adding at the end the following:

"(C) ALIENS ASSOCIATED WITH CRIMINAL GANGS OR CARTELS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary of Homeland Security shall not parole into the United States an alien described in section 212(a)(2)(J).

"(ii) EXCEPTION.—The Secretary of Homeland Security may parole into the United States an alien described in section 212(a)(2)(J) if—

"(I) the alien is assisting or has assisted the Government in a law en-

1 forcement matter, including a criminal
2 investigation; and
3 "(II) the presence of the alien in
4 the United States is required by the
5 Government for purposes of such as-
6 sistance.".
7 (j) APPLICABILITY.—The amendments made by this
8 section shall apply to conduct that occurs before, on, or
9 after the date of enactment of this Act.
10 **SEC. 6. BORDER ACCESS ROADS.**
11 (a) CONSTRUCTION.—
12 (1) IN GENERAL.—The Secretary shall com-
13 mence and complete the construction of roads along
14 the southern border to facilitate safe and swift ac-
15 cess for U.S. Customs and Border Protection per-
16 sonnel to access the border for purposes of patrol
17 and apprehension.
18 (2) TYPES OF ROADS.—The roads constructed
19 under paragraph (1) shall include—
20 (A) access roads;
21 (B) border roads;
22 (C) patrol roads; and
23 (D) Federal, State, local, and privately-
24 owned roads.

1 (b) MAINTENANCE.—The Secretary, in partnership
2 with local stakeholders, shall maintain roads used for pur-
3 poses of patrol and apprehension.
4 (c) POLICY GUIDANCE.—The Secretary shall—
5 (1) develop policies and guidance for docu-
6 menting agreements with landowners relating to the
7 construction of roads under subsection (a), as the
8 Secretary determines to be necessary;
9 (2) share the policies and guidance developed
10 under paragraph (1) with each Border Patrol Sector
11 of U.S. Customs and Border Protection;
12 (3) document and communicate the process and
13 criteria for prioritizing funding for operational roads
14 not owned by the Federal Government; and
15 (4) assess the feasibility of options for address-
16 ing the maintenance of non-Federal public roads, in-
17 cluding any data needs relating to such mainte-
18 nance.